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GAMBLING CONTROL DIVISION
BIENNIAL REPORT
Fiscal Years 1993 and 1994

AND
REPORT OF THE

1993 - 1994

GAMING ADVISORY COUNCIL
May 1995

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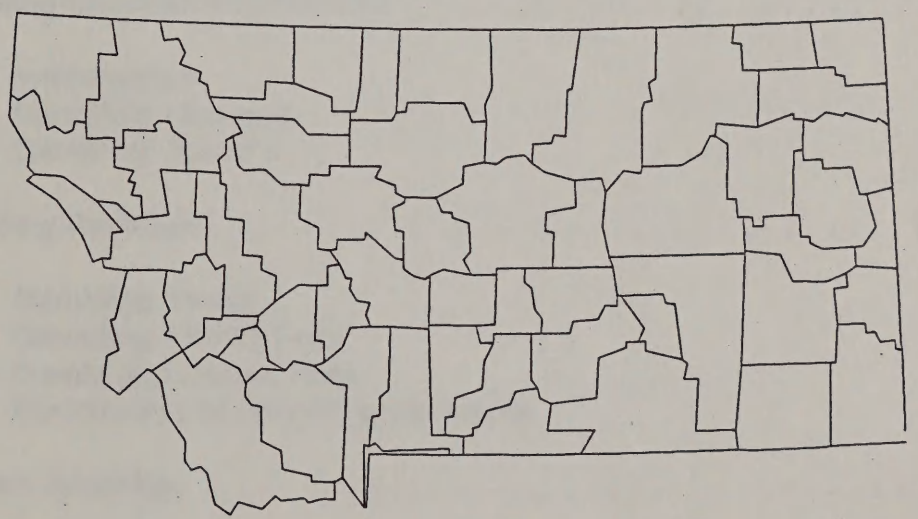
MONTANA DEPARTMENT OF JUSTICE

GAMBLING CONTROL DIVISION

BIENNIAL REPORT



Fiscal Years 1993 and 1994

MONTANA DEPARTMENT OF JUSTICE

GAMBLING CONTROL DIVISION

BIENNIAL REPORT

Fiscal Years 1993 and 1994

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I. INTRODUCTION

A. Creation of Division

Prior to 1989, responsibility for regulating most forms of gambling in Montana rested with local governments. This decentralized system resulted in a diverse range of control over gambling activities in the state. Some cities and counties vigorously controlled gaming within their boundaries while other jurisdictions took a more relaxed stance. A consistent approach to gambling regulation was nonexistent.

Recognizing that a uniform regulatory climate would serve the best interest of the gaming industry, general public, and local governments, the 1989 Legislature enacted Senate Bill No. 431[1], a bill centralizing gambling regulation under the Department of Justice. Statutory duties assigned to the Department included adopting administrative rules, licensing gambling providers and activities, collecting and distributing gambling taxes, testing and approving video gambling machines, and enforcing the gambling laws. The Attorney General, as head of the Department, created the Gambling Control Division to assume these duties.

B. Types of Gambling Under Division Jurisdiction

The Gambling Control Division's jurisdiction extends to all forms of gambling except the Montana Lottery and horse racing.[2] The following sections describe the games regulated by the Division:

Video gambling machines. A video gambling machine is an electronic gambling device that, upon insertion of cash, is available to play poker, keno, or bingo. The machine uses a video display and microprocessors in which, by the skill of the player, by chance, or both, the player may receive free games or credits that may be redeemed for cash.

---

[1] Chapter 642, Laws of 1989.

[2] The Montana Lottery and horse racing are under the jurisdiction of the Montana Lottery Commission and the Board of Horse Racing, respectively.

Live card games. Montana law authorizes ten card games: bridge, cribbage, hearts, panguingue, pinochle, pitch, poker, rummy, solo, and whist. These are nonbanking card games in which players bet against and settle with each other rather than betting against and settling with the house.

Live bingo. Live bingo is played on a card bearing a printed design of five columns of five squares each, 25 squares in all. The letters B-I-N-G-O must appear above the design, with each letter above one of the columns. No more than 75 numbers may be used. One number must appear in each square, except for the center square, which may be considered a free play. Numbers are randomly drawn using authorized equipment until the game is won by the person or persons who first cover a previously designated arrangement of numbers on the bingo card.

Live keno. Live keno is played with a card containing eight horizontal rows and ten columns on which a player may pick up to ten numbers. A keno caller, using authorized equipment, selects at random at least 20 numbers out of the numbers between one and 80, inclusive. A player may win prizes by matching the numbers selected in whole or in part.

Sports pools. In a sports pool, a participant wagers money for a chance to win cash or other prizes based on the outcome of a sports event or series of sports events wherein the competitors in the event or series are natural persons or animals. Several variations of sports pools are legal including the traditional sports pool, series sports pool, multiple way sports pool, selected point sports pool, blackout sports pool, weekly sweepstakes sports pool, and multiple competitor sports pool.

Sports tab games. A sports tab game is conducted on a card to which 100 sports tabs[3] are attached that have 100 different pairs of numbers. A person may purchase a sports tab from the card for the chance to win cash or other prizes based on the outcome of a sports event. A winner or winners are determined by matching the appropriate numbers on a participant's sports tab with the only or last digit of the competitors' score at the end of the sports event, and if designated

---

[3] A sports tab is a folded or banded ticket with a face covered to conceal a combination of two numbers, with each number ranging from zero through nine.

before the event by the game's sponsor, at intervals during the sports event.

Raffles. A raffle is a gambling activity in which a participant purchases a ticket for a chance to win a prize through a random selection process.

Calcutta pools. A Calcutta pool is a form of auction pool conducted in conjunction with an event involving more than two competitors. Participants in the pool bid on the event's competitors, and a participant's wager is equal to his or her bid. The highest bid "purchases" the competitor, and pool proceeds are divided among participants according to a competitor's performance in the event.

Casino nights. A casino night is a fundraising event conducted by a nonprofit organization during which wagers are made in certain gambling activities using imitation money. Only live card games that are legal in the state, live bingo, live keno, and raffles may be conducted during a casino night.

Fantasy sports leagues. A fantasy sports league consists of a limited number of persons or groups who pay an entrance fee for membership in the league. Each league member creates a fictitious team composed of athletes from a given professional sport. Each team then competes against the other teams in the league. Points are awarded to a team according to the performance of individual players or teams or both during a designated time period. A member may be eligible to receive a payout, which may be in cash or merchandise, based on the number of points accumulated.

Shake-a-day. Shake-a-day is a gambling activity in which a customer may once each day wager an amount of money, not to exceed 50 cents, and shake a number of dice in an attempt to roll a certain combination simulating a poker hand predetermined by the establishment. If the combination is rolled, the customer wins all money paid to play the game since the last winning combination was rolled.

Shaking for drinks or music. Shaking for a drink or music is a gambling activity in which a customer shakes or chooses one or more dice, alone or with an owner or employee of an establishment, to determine whether the customer or establishment

will pay for the customer's drink or pay a predetermined amount of money for music from a jukebox.

Fishing derbies. In a fishing derby, two or more persons pay valuable consideration for an opportunity to win a prize for the species, size, weight, or otherwise specified fish caught in a fishing event.

Wagering on natural occurrences. Wagering on a natural occurrence is a gambling activity in which a person pays valuable consideration for an opportunity to win a prize by most accurately predicting the date or time of an event resulting from a climatological or meteorological activity.

C. Wager and Payout Limits

In some cases, the gambling laws impose specific wager and/or and payout limits on gaming activities. The following table lists the limits imposed on the games. Poker machine payouts were increased by the Legislature to $800, effective 10/1/95.

TABLE 1.1
Wager and Payout Limits

	WAGER	PAYOUT
Video Gambling Machines	$2	$100/$800 Poker[1] $800/Keno/Bingo
Live Card Games	None	$300
Live Bingo/Keno	$.50	$100
Raffles	None	$5000 (Except Nonprofit)
Sports Pools/Tabs	$5	$500
Calcutta Pools	None	None
Shake-A-Day	$.50	None
Shaking for Drink	None	None
Shaking for Music	None	$2
Fishing Derbies and Natural Occurrences	None	None
Casino Nights	None	None
Fantasy Sports Leagues	None	None

[1]Poker machine payouts $100 through 9/30/95. As of 10/1/95 poker machine payouts will be $800.

Statistics on the amounts wagered on selected gambling activities in this state are contained in Table 1.2.

TABLE 1.2
Amount Wagered on Selected Gambling Activities
Fiscal Years 1992 Through 1994
(In Millions)

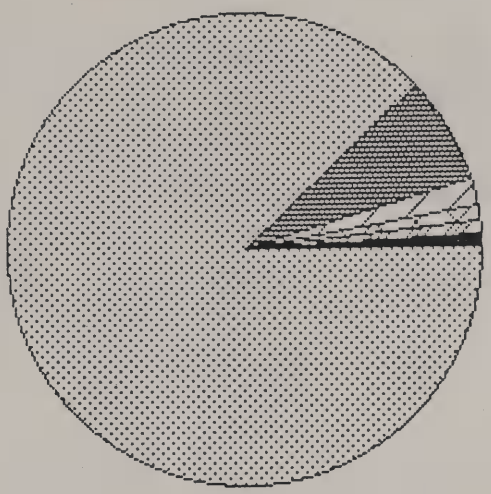
	1992	1993	1994
Live horse racing[1]	$ 5.2	$ 5.8	$ 4.8
Simulcast racing	3.7[2]	5.4[3]	4.2[4]
Commercial live keno	6.1	5.7	5.5
Commercial live bingo	11.1	9.4	8.5
Lottery	28.0	36.8	37.5
Video gambling machines	358.8	397.0	444.5
Totals	$412.9	$460.1	$505.0

[1] Live season covers May through September of each year.
[2] Covers winter season (October through May 1992) .
[3] Covers winter season (October through May 1993).
[4] Covers winter season (October through May 1994).

As noted above, in fiscal year 1992 Montanans and visitors to the state wagered $412.9 million on live and simulcast horse racing, commercial live bingo and keno, lottery, and video gambling machines.[4] This figure grew to $505.0 million in fiscal year 1994, a 22.3 percent increase. Only the lottery and video gambling machines experienced a significant increase in the total wagered during this three-year period. The annual amount wagered per Montana resident age 18 or older on these six gambling activities was approximately $875 in fiscal year 1994, with approximately $500 spent by every man, woman and child on video gambling machines. As the graph on the following page illustrates, video gambling machines accounted for nearly 88 percent of the wagering on these gambling activities in fiscal year 1994, while simulcast horse racing accounted for less than one percent.

[4] The amount wagered on video gambling machines is an estimate based on a sample of video gambling machine tax returns.

PERCENTAGE WAGERED ON SELECTED GAMBLING ACTIVITIES
FISCAL YEAR 1994



Live horse racing .95%
Comm. live bingo 1.68%
Simulcast racing .83%
Lottery 7.43%
Comm. live keno 1.09%
Vid. gam. machs. 88.02%

II. 1993 LEGISLATIVE CHANGES

During the 1993 legislative session, a number of gambling-related bills were introduced. The following summarizes the major provisions enacted in 1993.

A. Amusement Games

Amusement games include coin or token operated games of skill and may be played if they meet the definition of skill contained in the statute. This definition requires that a player's physical or mental ability must play an integral role in determining the number of tokens or tickets won, that repeated play of the game would result in increased skill, and that a player's precision, dexterity, or knowledge would result in winning more tokens or tickets.

B. Licenses

Route Operators: Route operators may pay only the following expenses for their locations -- machine permit fees and taxes, promotional activities, machine repair and maintenance, change banks and prize payouts, accounting and recordkeeping services.

Manufacturer-Distributor: New license applications received after October 1, 1993 must specify if the business is a manufacturer, distributor, or route operator. A business may apply for more than one license; the Division may waive fees if the applicant is essentially the same business.

Non-profits: Poker runs conducted by non-profit organizations need not be played out in licensed premises. The non-profit organization may retain a portion of the total amount paid to participate.

Permitting Machines: When a license changes hands during the first quarter and the machines in the establishment have already been permitted, the new license holder may pay a fee of $25 per machine to allow the permits to be valid for the remainder of the permit year.

Sale of machines: Up to 20 machines a year may be sold by a licensed operator who has operated and obtained permits for the machines. The sale must be made to another licensed entity. A lienholder who acquires machines through foreclosure may sell to a licensed entity.

C. Live Bingo

The game may now be stopped to award prizes on number arrangements, but only $100 total can be awarded per game.

D. Sports Pools

Pig, Gerbil, and Hamster Races: Sports pools may be conducted on live races between pigs, gerbils, or hamsters at licensed premises located in incorporated towns with fewer than 100 people or located outside the boundaries of incorporated cities.

Shake-a-Day: Operators may offer more than one shake-a-day game at any given time.

E. Miscellaneous Provisions

Cashing payroll checks: Licensed establishments may not cash payroll checks as part of a promotional activity.

Underage Gambling: A person under the age of 18 who participates in a gambling activity may face a civil penalty of up to $50.

Felonies: Credit gambling becomes a felony upon conviction of a third or subsequent offense.

Promotional games: Promotional games must simulate a gambling enterprise authorized under state law. Prize limits for games based on live card games and bingo or keno must be the same as current state law limits.

IIa. 1995 Legislative Changes

The following legislative initiatives received approval by the 1995 Legislature:

HB173: Exchange of Information: This bill was signed by the Governor and became effective on March 13, 1995. It allows the Department of Justice to provide regulatory information to gambling agencies of jurisdictions outside Montana. This bill was requested by the Department.

HB208: Public Information: This bill, which became law on March 21, 1995, implemented the public's constitutional right to information relating to civil and criminal sanctions imposed for gambling law violations.

HB527: Increasing the Poker Machine Payout: This bill, which has been signed by the Governor and becomes effective in October, increases the payout on poker machines from $100 to $800.

HB559: Pinochle Tournaments: HB559, effective in October 1995, allows pinochle tournaments conducted by non-profit organizations. The law is similar to current statutes on casino nights.

HB537: Prohibition of Co-location of Commonly-Owned Casinos: HB537, requested by the Montana Tavern Association, received final approval after being amended in both the House and the Senate. The bill is intended to prohibit establishments under common ownership from being located within 150 feet of each other.

The following bills were tabled or received adverse reports in committee action:

SB260: Establishment of a Gaming Trust Fund for Treatment of Pathological Gambling Addiction: This bill would have set up a trust fund from current gambling revenues (including the lottery and horse racing) to be used to deliver services to treat pathological gambling addictions. Service delivery would be coordinated by the Department of Corrections.

HB525: Elimination of sports tab tax and decrease in amount paid out to players.

HB583: Increase gambling taxes to fund property tax reductions (state school levy).

The following bill did not pass both houses with sufficient votes to assure passage:

SB109: Ballot issue to authorize establishment of the legal age for gambling.

SB187: Authorization for automation of machine reporting and accounting. This bill, submitted by the request of the Attorney General and the Governor, would have provided for automated accounting and reporting of machine income and play; it included a study phase, tax credits of up to $600 per machine for conversion, and grandfathering of older machines that could not be converted. The bill passed the Senate but failed in the House by five votes.

IIb. Legislative Audit

After the 1991 Legislative Session, the Legislative Auditor was instructed to conduct a performance audit of the Gambling Control Division. The audit was conducted in 1992 and published in January 1994 in a Performance Audit Report entitled, *Regulation and Monitoring of Video Gambling Machines.* The Auditor's findings and recommendations are summarized below:

I. The Division needs to inspect machines more frequently and needs to include EPROM testing in all inspections. The Division currently is able to inspect each machine once every seven years at current staffing levels.

II. The current tax reporting system does not work as intended; 28.7 to 38.4 percent of gambling establishments pay an incorrect amount of tax on video gambling machine proceeds and an additional 18 to 22 percent of other establishments could be paying an improper amount. Given the current staffing levels, it will take the Division 65 years to complete a field audit of all establishments. The following concerns were identified in the audit:

1. Returns are not always properly completed and mathematical errors exist;

2. Documentation of gambling machine income is often missing and inadequate;

3. All machine play is unaccounted for;

4. Mechanical and electronic meters repeatedly do not balance;

5. Frequent machine service is apparent; and,

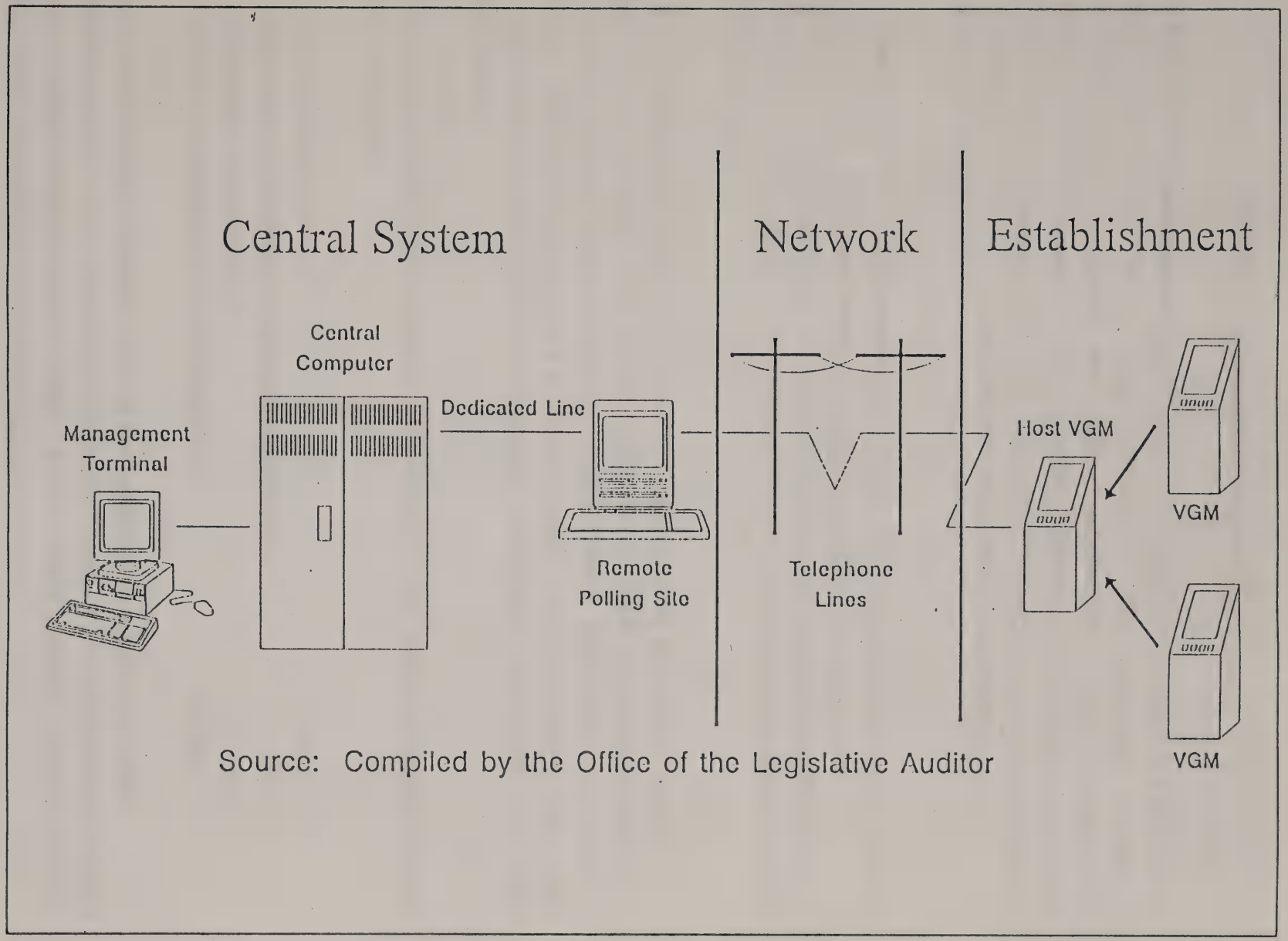
6. Often the correct tax is not paid by gambling establishments.

AUDIT RECOMMENDATION - One type of automated system capable of monitoring video gambling activities and revenues is a dial-up system. This system requires a central computer to "dial-out" to gambling machines on a scheduled basis (every 24 hours) in order to obtain pay and revenue statistics. This would also improve the integrity of video gambling by ensuring that both the public and the gambling industry are protected and by enhancing the accountability of public funds. The audit recommended that the Department of Justice present a plan to the 1995 Legislature to implement a dial-up system. **(Diagram of dial-up system on following page)**

AUDIT ALTERNATIVE (ADDITIONAL STAFF) - The Auditor noted that if the Department did not propose a dial-up accounting and reporting system, it would be necessary to add 23 FTE staff positions in order to achieve a similar level of accuracy, fairness and integrity to the state's collection and oversight of gambling revenue.

The Department proceeded with a review of existing technology and systems that would provide for automated accounting and reporting of gambling information to ensure that the correct amount of taxes are paid and also that machine play was fair and legal. This review included site visits by Division staff to Saskatchewan and South Dakota, two jurisdictions that currently own and operate *dial-up systems,* and a Request for Information from gambling, computer and related manufacturers of existing automated systems.

The Attorney General, in conjunction with the Governor requested a bill be submitted to the 1995 Legislature authorizing the implementation of an automated system. The bill, which was sponsored by the President of the Senate, passed the Senate but failed in the House of Representatives by a vote of 52 to 47.
In addition, the Division undertook a review of the Montana gambling industry to ensure that whatever system might be adopted would fit the existing Montana industry and also meet the Divisions' needs.



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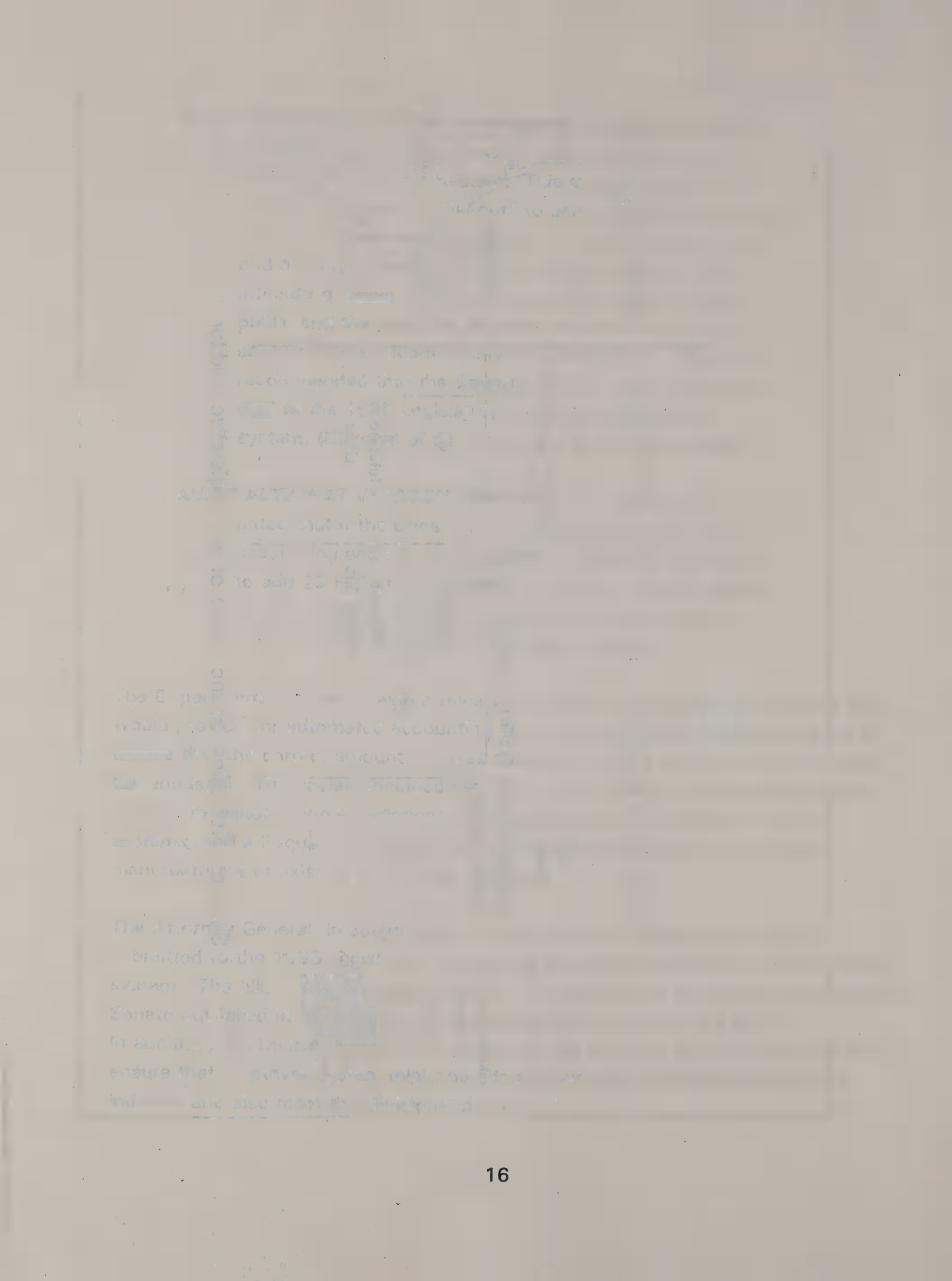

IIc. Montana Gambling Industry Overview

The picture of Montana's gambling industry that emerges from recent statistics is no longer one of a small "mom and pop" industry. Today, gambling in Montana is dominated by large casinos with very profitable operations. These casinos are 20-machine establishments whose Video Gambling Machines (VGMs) have an annual individual machine average gross income of $24,300, and a small but significant and profitable group of route operators who dominate the ownership and distribution of VGMs.

A number of smaller establishments with one to five machines, still exist. These machines show a significant average annual gross machine income of approximately $6,500 per year per machine. Even small establishments, those with only three VGMs, realize an average gross machine income of approximately $20,000 per year.

The gambling industry is a significant part of the Montana economy. Players wagered approximately $450 million on VGMs in FY 1994. Total gross machine income (after payouts) was approximately $200 million. Reported tax revenue in FY94 was $30 million, split equally in thirds between the state general fund, city and county governments. By comparison, the state lottery generated $36.8 million in total sales.

As of January 4, 1995, the following number and type of gambling establishments were in operation:

On-Premise Liquor	1,487
Convenience Stores (grandfathered locations)	54
Fraternals, non-profits	60
TOTAL GAMBLING ESTABLISHMENTS	1,601

By far, most gambling locations (1,487) are located in for-profit gambling establishments that also have on-premise liquor licenses. These establishments are allowed to make available for public play up to 20 video gambling machines (either poker or keno machines in any combination up to 20).

As of January 4, 1995, 253 of the 1,601 establishments contained 20 video gambling machines, the maximum allowable for public play. There are the following number of different sized establishments by number of VGMs:

Number of VGMs	Number of estab.
1-4 machines	412
5-9 machines	561
sub-total(less than 10)	973
10-14 machines	245
15-19 machines	130
20 machines	253
sub-total(10 to 20)	628
TOTAL ESTABLISHMENTS	1,601

As of January 4, 1995, 14,958 machines were licensed for play in Montana -- compared to just 8,462 machines licensed in 1988, when the state first began licensing both video poker and keno machines.

Route operators own nearly two-thirds of these 14,958 machines, while the remaining third is owned by the establishment in which they are located. In addition, the six largest route operators in the state owned 4,588 machines. This amounts to nearly one-half of all machines owned by route operators and one-third of all machines licensed for play in Montana.

VGMs OWNED BY RT. OP.	9,977
VGMs OWNED BY ESTAB.	4,981
TOTAL NUMBER OF VGMs	14,958

VGM Producing Revenue:

The average gross income per video gambling machine, for establishments (814 establishments out of 1,601) that operated all their machines a full four quarters of

FY 1994 was:

Machines	# of Estab.	Total VGMs	AVG. Income/machine/yr
1 - 4	314	85	$6,555.02
5 - 9	287	1,839	$7,813.66
10 - 15	92	1,057	$9,524.23
15 - 20	121	2,309	$24,300.97

As a group, Route Operators own a significant portion of the machines in Montana. Average net income per machine for machines that were in operation a full four quarters in FY 1994.

Machines	Rt.OP	Total VGMs	AVG.Income/machine/yr.
1 - 50 machines	"	1194	$18,066.35
51 - 100 machines	"	890	$12,439.33
151- 200 machines	"	1289	$10,598.90
201- 250 machines	"	231	$16,862.68
251- 300 machines	"	261	$11,846.45
301+ machines	"	3150	$14,893.86

In order to understand the magnitude of the potential profit-generating power of VGMs it is important to look not only at average machine income per year but also the upper end of the spectrum. There were eight VGMs that produced record high gross income, over $100,000 each in FY 94:

		FY94 Net
Missoula	1 machine	$164,632
Great Falls	1 machine	$128,578
Billings	1 machine	$112,599
Billings	1 machine	$110,452
Helena	1 machine	$110,279
Helena	1 machine	$110,112
Billings	1 machine	$106,079
Billings	1 machine	$105,685

In FY 1994, 16 establishments (all with 20 machines) had a gross income from

video gambling machines of more than $1,000,000 each. Of those 16, the highest was $1.5 million gross income located in Helena and the lowest of the 16 was $1,000,000 located in Butte.

In FY 1994, 104 establishments (all with 20 machines) had a gross income from video gambling machines of over $500,000 each.

VGMs Not Upgradeable to Dial-up Standards:

Currently, 1,525 out of 14,958 video gambling machines in Montana are not capable of being upgraded or would be too costly to be upgraded to dial-up standards. These machines are being eliminated or phased out by establishments and route operators on a regular basis, and in two years' time that number will likely have fallen significantly. Every license renewal period, the Division finds that owners have removed a number of these machines from the market, and it is expected that this trend will continue. In FY 1994, by comparison, approximately 1,800 VGMs were incapable of being upgraded to dial-up standards.

The number of VGMs in smaller gambling establishments (those with five or fewer machines) that are not upgradeable to dial-up standards, as of January 4, 1995, is as follows:

	Number of VGMs
Route Operator owned machines	**77**
Establishment owned machines	**21**
TOTAL VGMs (In smaller establishments) NOT FEASIBLE TO UPGRADE	**98**

The total number of VGMs, as of January 4, 1995, that are not upgradeable to dial-up standards are:

	Number of VGMs
Route Operator owned machines	**1,050**
Establishment owned machines	475
TOTAL NUMBER OF VGMs NOT FEASIBLE TO UPGRADE	**1,525**

Life expectancy varies with each individual machine type, and machines are often replaced for marketing reasons rather than for any physical malfunction. Newer machines offer more varied and interesting graphics, game play, and increased ease of operation and maintenance. The industry depreciates machines over a three to five-year period.

IId. Enforcement and Audit Statistics (as of 3/95)

The Division is completing implementation of a data base for gambling violations. This will provide better statistics on both criminal and civil violations. The following information has been compiled using existing case files (data shown is for Fiscal Year 1994, calendar year 1994, or year-to-date data for Fiscal Year 1995, as of March 1995).

Enforcement: Criminal Cases

(Note: only portions of the gambling statutes allow for criminal prosecution rather than civil violation. In presenting a criminal case for prosecution, the State must prove intent to commit a crime.)

In 1994, **18 Felony and 7 misdemeanor cases** were referred to County Attorneys, for such crimes as:

unlicensed machines
theft from machines
illegal live games
operating without a license or leasing a license
illegal machine shipments

Enforcement: Civil Cases

(Note: all civil cases are subject to the review and appeal provisions of the Montana Administrative Procedure Act.)

Violations issued, FY94: 62
Violations issued, FY95 to date: 27
Recordkeeping penalties, FY95 to date: 150
Cases closed, all types, FY95 to date: 168

Enforcement: Taxes

On average, 45 establishments fail to pay taxes each quarter. When issued a Temporary Cease and Desist, most establishments pay both the taxes and the

penalties associated with nonpayment to avoid a shut-down. In FY94, 13 establishments were actually shut down because of non-payment. In FY95 to date, 10 cease and desist have been requested and 9 issued. Non-payment may result from a failure to pay taxes when due or a failure to pay taxes and penalties due following an audit.

Investigations

Offense Investigations, FY94: 415

Audit

Of 100 field audits conducted, recordkeeping penalties were issued in 68 cases in addition to 17 corrective warnings. Therefore, a total of 85% of establishments audited failed to keep proper records. Because of the manual, paper-based system used to record machine activity, it is difficult to prove that this was done with the deliberate attempt to the violate the law.

Desk audits, FY94: 2,400
Field audits, FY94: 50
Aggregate taxes collected, FY94: $202,204

III. GAMBLING LICENSES AND PERMITS

A. Introduction

The Gambling Control Division is directed by statute to provide licensing procedures, prescribe application forms, and grant or deny license applications (§23-5-115(3), MCA). According to §23-5-110(2), MCA, issuance of a license or permit is a privilege, not a right, that is revocable for good cause only. A licensee does not acquire a vested right in a license or permit and may not sell, assign, lease, or transfer a license or permit. All licenses and permits expire annually on June 30, except for a card dealer's license, which expires on the licensee's birthday.

Licensing process. To obtain a gambling license and related permits, a person must submit to the Gambling Control Division a completed application and supporting documents plus processing and licensing fees, if required. After receiving the application, the Division reviews it for minimum requirements, and the applicant is contacted in writing if additional information is needed. An investigation, including a financial review, is then conducted in the field. The applicant is again contacted if more documentation is necessary. A computerized Criminal Justice Information Network (CJIN) check on the applicant is conducted while the financial review is underway. The investigator interviews the applicant, conducts follow-up investigations, and inspects the applicant's premises. The investigation report and application materials are returned to the Division for a final determination on the applicant's suitability for licensure. Any licensing determination made by the Division (e.g., approval, denial, placement of conditions) may be appealed to an independent hearing examiner appointed by the Division. After exhausting all administrative remedies, an applicant may appeal to state district court.

Qualifications for licensure. Section 23-5-176, MCA, provides that the Division must issue a license to an applicant unless the Division can demonstrate that the applicant:

(1) is a person whose prior activities or criminal record poses a threat to the public interest of the state; poses a threat to the effective regulation and control of

gambling; or creates a danger of illegal practices in the conduct of gambling;

(2) has been convicted of a felony offense within five years of the date of application or is on probation or parole or under deferred prosecution for committing a felony offense;

(3) is receiving a substantial amount of financing for the proposed operation from an unsuitable source; or

(4) has falsified a license or permit application.

Conditional licenses. Section 23-5-115, MCA, allows the Division to place conditions on a license. Typically a conditional license will state specific terms under which the licensee must operate in order to remain licensed (e.g., payment of video gambling machine taxes in full and on time). In some cases, the conditions require the licensee to supply additional information or documentation to the Division within a specified period of time (e.g., a lease agreement reflecting market value rates). If the conditions are met, the Division will issue a standard license. If the conditions are not met, the Division may initiate revocation of the license.

Provisional licenses. When the Division first began licensing gambling operators in July 1989, provisional licenses were issued because of the large volume of applications received and the inability of the Division to process more than 1700 applications in less than 30 days. These temporary licenses allowed a person to conduct business in the state while the Division determined whether the applicant qualified for licensure. In October 1991, the Division amended its administrative rules to eliminate issuance of provisional licenses for initial applications. Provisional licenses were eliminated because they had served their purpose in getting a large number of persons licensed as quickly as possible. In addition, because provisional licenses were not provided for in statute, the Division was subjected to considerable criticism by the Legislature's Administrative Code Committee for issuing an unauthorized license.

B. Gambling Licenses

As required by statute and rule, the Gambling Control Division issues ten separate licenses for the following occupations:

- operator;
- card dealer;
- card room contractor;
- gambling device manufacturer;
- gambling device distributor;
- gambling device route operator;
- manufacturer of illegal gambling devices;
- sports tab card manufacturer;
- electronic live bingo and keno equipment manufacturer; and
- antique slot machine dealer.

The following sections describe the licenses issued by the Division. License fee revenue collections and distribution are covered in Chapter IV.

Operator's licenses. Before a person may operate video gambling machines or live games (i.e., cards, bingo, or keno), he or she must obtain an operator's license. In addition, a person seeking to conduct a live card game or operate video gambling machines must possess a license to sell alcoholic beverages for on-premises consumption.[5] A liquor license is not required to provide other forms of gambling except sports tabs.

The table on the next page lists the number and types of operator's licenses initially issued or renewed in fiscal years 1993 and 1994:

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[5] Certain "grandfather" provisions allow card game table and video gambling machine permits to be issued to a person who legally operated a table or machine on January 15, 1989, but did not have a liquor license on that date (§§23-5-306 and -611, MCA).

TABLE 3.1
Operator's Licenses Initially Issued or Renewed
Fiscal Years 1993 and 1994

Type of License	FY 1993	FY 1994
Standard	1,572	1,576
Provisional	129	97
Conditional	32	36
Totals	1,733	1,709

Card dealer's licenses. A card dealer's license is required to deal cards in a game of poker or panguingue. An applicant may obtain a temporary 90-day dealer's license by completing and mailing to the Gambling Control Division the application materials obtained at a local driver license station. In fiscal year 1993, the Division issued 532 dealer's licenses; 456 licenses were issued in fiscal year 1994.

Card room contractor's licenses. Effective July 1, 1991, a person was permitted to contract with an operator to conduct live card game tables on the operator's premises, if the person obtained a license from the Gambling Control Division. At the time of application, the applicant must submit a copy of the agreement entered into with the operator. Twenty card room contractor's licenses were issued in fiscal year 1993 and twenty-four in fiscal year 1994.

Manufacturer-distributor-route operator licenses. The manufacturer-distributor-route operator license issued by the Division covers three different occupations involving gambling devices and equipment: manufacturer[6], distributor[7], and route

[6] A manufacturer is a person who assembles from raw materials or subparts a completed piece of equipment or pieces of equipment of any kind to be used as a gambling device.

[7] A distributor is a person who purchases or obtains equipment for use in gambling activities and who sells the equipment to another person for use in public.

operator[8]. The following table lists the number of manufacturer-distributor's licenses issued in fiscal years 1993 and 1994 according to occupation.

TABLE 3.2
Manufacturer, Distributor and Route Operator Licenses Issued
By Occupation
Fiscal Years 1993 and 1994

Occupation Type	FY 1993	FY 1994
Manufacturer	18	18
Distributor	15	17
Route Operator	118	118
Totals	151	153

Manufacturer's licenses for illegal devices. State law permits a person to manufacture, for export, gambling devices that are not legal in Montana, if a license is obtained from the Gambling Control Division. The Division licensed five businesses to manufacture illegal devices in both fiscal year 1993 and fiscal year 1994.

Sports tab card manufacturer's licenses. In 1991, the Legislature legalized sports tab games and required manufacturers wishing to sell sports tab cards in the state to obtain a license from the Gambling Control Division. The Division licensed one sports tab card manufacturer in fiscal years 1993 and 1994.

Electronic live bingo or keno equipment manufacturer's licenses. Also in 1991, the

[8] A route operator is a person who purchases gambling devices or associated equipment and leases the devices or equipment to an operator for use in public.

Legislature required manufacturers of electronic live bingo or keno equipment[9] to be licensed by the Gambling Control Division before conducting business in the state. No electronic live bingo or keno equipment manufacturer's licenses were issued in fiscal year 1993 and 1994.

Antique slot machine dealer's licenses. Another license created by the 1991 Legislature was for the commercial sale of antique slot machines[10]. A person other than a licensed manufacturer-distributor may not sell more than three antique slot machines in a 12-month period without obtaining a license from the Gambling Control Division. The license may not be issued to a licensed gambling operator. The Division issued 3 antique slot machine dealer licenses in fiscal year 1993 and 1994.

C. Gambling Permits

Once a person is issued an operator's license, the licensee may obtain permits from the Gambling Control Division to conduct the following gambling activities:

- video gambling machines;
- live card game tables;
- card game tournaments; and
- live bingo and keno games.

A person need not be a licensed operator to conduct other legal gambling activities;[11] however, a permit must be obtained to conduct a raffle, Calcutta pool, or casino night. Raffle permits are issued by each board of county commissioners for raffles conducted within its jurisdiction. The Gambling Control

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[9] Electronic live bingo or keno equipment is an electronic device or system that uses a microprocessor to generate random numbers during a live bingo or keno game.

[10] An antique slot machine is defined as a mechanically or electronically operated slot machine that at any present time is more than 25 years old. It may be possessed, located, and operated only in a private residence or possessed or located for display purposes only and not for operation in a public museum.

[11] For example, although an operator's license is not needed to conduct shake-a-day, shaking for music or a drink, or sport tab games, a license for the on-premises consumption of alcoholic beverages is required.

Division is responsible for issuing Calcutta pool and casino night permits.

The following sections describe the permits issued by the Division. Permit fee revenue collections and distribution are covered in Chapter IV.

Video gambling machine permits. A permit is required for each video gambling machine made available for play on an operator's premises. When a machine is moved from one location to another, a new permit must be issued for the machine. Table 3.3 provides data on the number of video gambling machine permits issued in fiscal years 1986 through 1994.

TABLE 3.3
Video Gambling Machine Permits Issued By Machine Type
Fiscal Years 1986 Through 1994

Fiscal Year	Poker	Keno	Bingo	Total
1986[1]	2,210	0	0	2,210
1987[1]	3,600	0	0	3,600
1988	4,564	3,786	112	8,462
1989	5,107	4,502	60	9,669
1990	6,220	4,729	22	10,971
1991	7,353	5,268	0	12,621
1992	7,910	6,455	0	14,365
1993	8,650	7,839	0	16,489
1994	8,428	8,612	0	17,040

[1] For fiscal years 1986 and 1987, the state licensed only video poker machines. State regulatory control was extended to keno and bingo machines beginning in fiscal year 1988.

Because a video gambling machine must be issued a new permit each time it changes locations, the number of permits issued is not equivalent to the number of machines operating in a given fiscal year. A more accurate reflection of the number of active machines is the number of machines reporting income for video gambling machine tax purposes. Table 3.4 and the graph on the following page provide information on the number of reporting machines for fiscal years 1988

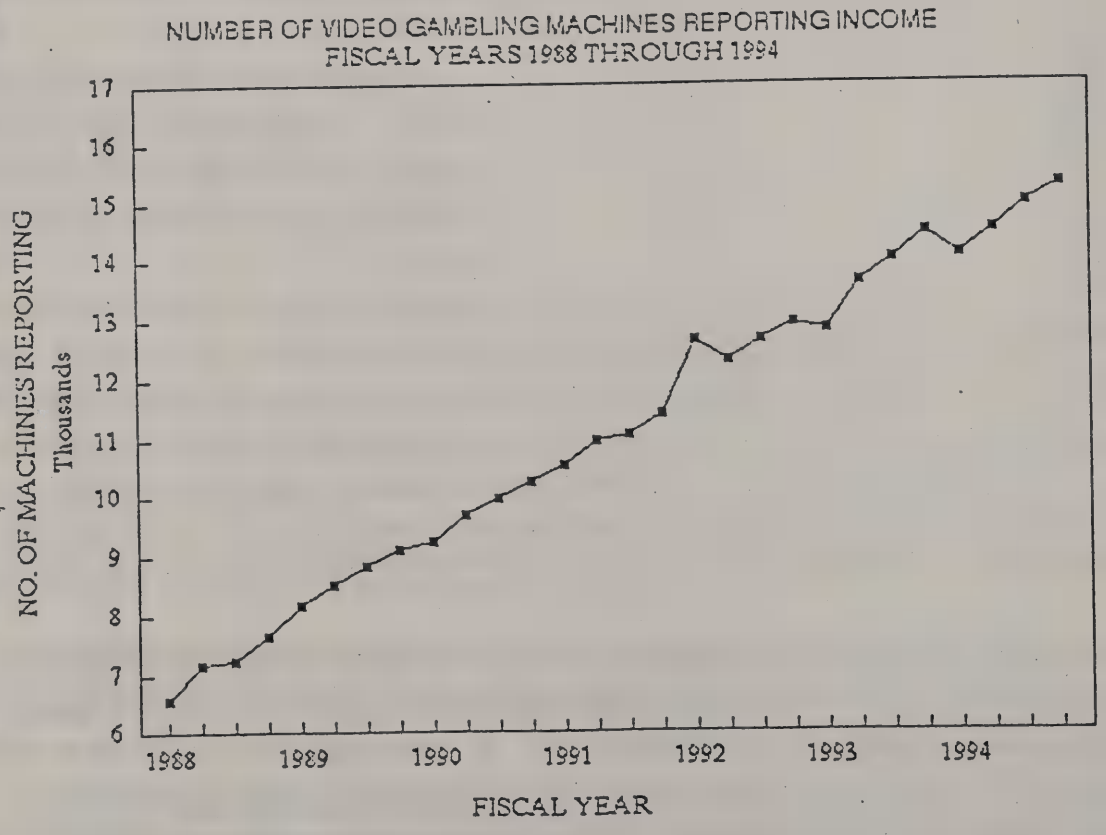
through 1994.

TABLE 3.4

Number of Video Gambling Machines Reporting Income

Fiscal Years 1988 Through 1994

Fiscal Year	1st Qtr.	2nd Qtr.	3rd Qtr.	4th Qtr.
1988	6,570	7,146	7,223	7,644
1989	8,154	8,507	8,816	9,095
1990	9,231	9,698	9,975	10,268
1991	10,526	10,939	11,048	11,390
1992	12,650	12,300	12,658	12,937
1993	12,844	13,629	14,014	14,451
1994	14,069	14,495	14,964	15,273



An operator may place up to 20 video gambling machines of any legal type (i.e., poker, bingo, or keno) on his or her premises. Table 3.5 provides data on the number of premises with a specific number of machines as of June 30, 1994.

TABLE 3.5
Number of Video Gambling Machine Permits Issued Per Premises
As of June 30, 1994

No. of Machines on Premises	No. of Premises	Total Machines	Percentages of Premises	Percentages of Machines
1	80	80		
2	94	188		
3	125	375		
4	157	628		
5	167	835		
Totals	**623**	**2,106**	**38.3%**	**14.4%**
6	132	792		
7	107	749		
8	102	816		
9	72	648		
10	71	710		
Totals	**484**	**3,715**	**29.7%**	**25.4%**
11	51	561		
12	44	528		
13	26	338		
14	36	504		
15	36	540		
Totals	**193**	**2,471**	**11.9%**	**16.9%**
16	24	384		
17	14	238		
18	29	522		
19	22	418		
20	239	4,780		
21	0	0		
Totals	**328**	**6,342**	**20.1%**	**43.3%**

Total Premises - 1628 **Total Machines - 14,634**

As indicated on the previous page, over one-third of the premises (38 percent) operate from one to five video gambling machines, which in total comprise about 14.5 percent of the machines in play. In contrast, approximately 20 percent of the premises offer from 16 to 20 video gambling machines, which represents 43 percent of the machines in play. The average number of machines per premises is approximately 9.

Live bingo and keno permits. A live bingo and keno permit allows commercial operators to conduct either game or both games on their premises for a fee of $250. Certain groups are exempt from the fee: nonprofit organizations qualified under 26 U.S.C. 501(c)(3), (4), (8), or (19) that qualified for the federal exemption on or before January 15, 1989; long-term care facilities; retirement homes; and senior citizen centers. Nonprofit organizations that qualified for the federal exemption after January 15, 1989, are exempt from one-half of the fee (i.e., $125). Table 3.6 lists the number of live bingo and keno permits issued according to the type of game offered for fiscal years 1990 through 1994.

TABLE 3.6
Number of Live Bingo and Keno Permits Issued
Fiscal Years 1990 Through 1994

Type of Licensee	Type of Game	Fiscal Years 1990	1991	1992	1993	1994
Commercial Establishment	Bingo	54	58	49	43	36
	Keno	52	47	44	40	39
	Bingo/Keno	11	10	6	10	9
	Subtotal	117	115	99	93	84
Exempt Organization	Bingo	60	62	89	60	59
	Keno	3	2	1	1	2
	Bingo/Keno	0	1	3	10	0
	Subtotal	63	65	93	61	61
	Total	180	180	192	154	145

Live card game table permits. A live card game table permit is required to conduct any legal card game involving gambling. The permit fee is $250 for the first table operating in an establishment and $500 for each additional table. Table 3.7 on the following page lists the number of live card game table permits issued for fiscal years 1990 through 1994.

TABLE 3.7
Number of Live Card Game Table Permits Issued
Fiscal Years 1990 Through 1994

Fiscal Year	First Table	Additional Tables	Total
1990	233	59	292
1991	240	47	287
1992	233	50	283
1993	215	59	274
1994	209	55	264

Card game tournament permits. An operator with at least one live card game table permit may conduct up to 12 live card game tournaments a year. Each tournament may be conducted for up to five consecutive days, and at least seven days must lapse between tournaments. In fiscal year 1990, the Gambling Control Division issued 45 tournament permits. This number increased to 67 permits in fiscal year 1993 and 105 in fiscal year 1994.

Calcutta pool permits. The Division issued 62 permits for Calcutta pools in fiscal year 1993 and 57 permits in fiscal year 1994. (A description of a Calcutta pool can be found on page 3.)

Casino nights. Authorization to conduct casino nights was effective July 1, 1991. In fiscal year 1993 and 1994, 12 casino night permits were issued. (A description of a casino night can be found on page 3.)

IV. GAMBLING REVENUES

Gambling revenues are generated from three main sources: taxes, permit fees, and license fees. This chapter describes these revenue sources, the amount collected from each source, and distribution of the revenue. A description of the permits and licenses issued by the Gambling Control Division and statistics on the number issued are contained in Chapter III.

A. Gambling Taxes

The Gambling Control Division collects taxes on the following gambling activities:

- video gambling machines;
- live bingo;
- live keno; and
- sports tab games.

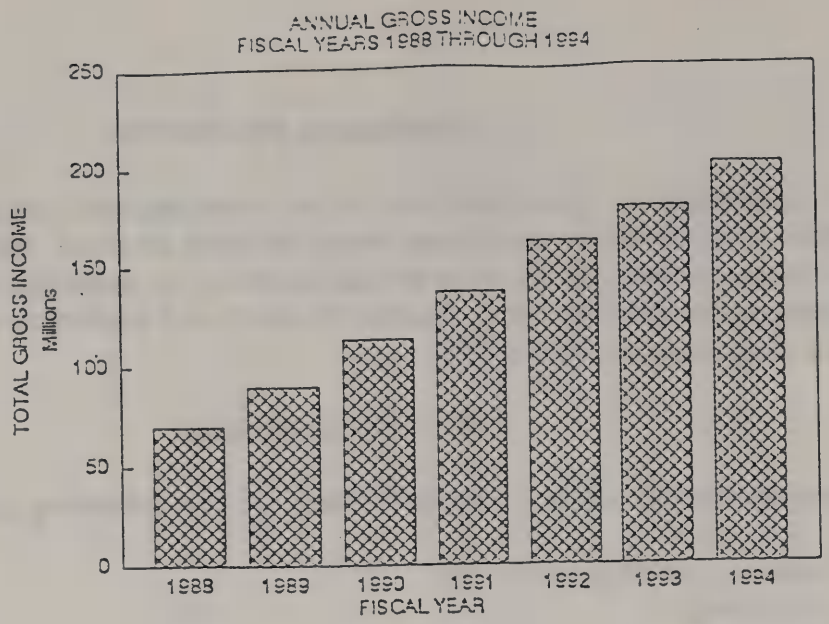
The following sections describe the taxes collected by the Division. A summary of the gambling taxes is contained in Appendix A.

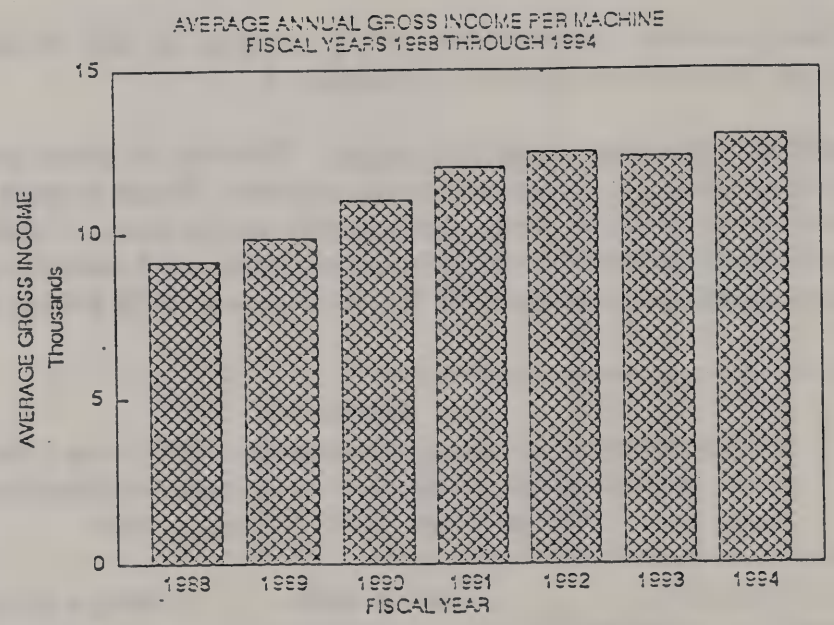
Video gambling machine gross income tax. The tax on video gambling machines is based on a percentage of machine gross income. Gross income is defined as the money put into a machine minus credits paid out in cash. Table 4.1 below and the graphs on the following page provide data on the total machine gross income and average gross income per machine for fiscal years 1988 through 1994.

TABLE 4.1
Total Video Gambling Machine Annual Gross Income
And Average Annual Gross Income Per Machine
Fiscal Years 1988 Through 1994

Fiscal Year	No. of Machines[1]	Total Annual Gross Income	Average Annual Gross Income Per Machine
1988	7,644	$ 70,026,913	$ 9,161
1989	9,095	89,943,693	9,889
1990	10,268	113,363,300	11,040
1991	11,390	137,044,407	12,032
1992	12,937	161,732,920	12,502
1993	14,540	178,900,000	12,304
1994	15,411	200,300,000	12,997

[1] Machines reporting income for tax purposes for fourth quarter in each fiscal year.





As illustrated above, the annual gross income for all machines in fiscal year 1988 was $70.0 million; this figure grew to $200.3 million in fiscal year 1994, a 186 percent increase. Average gross income per machine increased 42 percent during this same period, from $9,161 in fiscal year 1988 to $12,997 in fiscal year 1994.

The table on the following page pertains to video gambling machines that operated at the same location for an entire year during fiscal years 1993 and/or 1994; the data show the number of machines reporting annual gross income within various income categories.

TABLE 4.2
Number of Video Gambling Machines[1]
By Annual Gross Income Category
Fiscal Years 1993 and 1994

Annual Gross Income			Number of Machines FY 93	Number of Machines FY 94
$ 0	-	$ 500	29	53
501	-	1,000	105	132
1,001	-	2,000	451	591
2,001	-	3,000	642	696
3,001	-	4,000	736	795
4,001	-	5,000	762	812
		Total	**2,725**	**3,079**
$ 5,001	-	$ 6,000	739	764
6,001	-	7,000	703	705
7,001	-	8,000	608	653
8,001	-	9,000	610	625
9,001	-	10,000	561	556
		Total	**3,221**	**3,303**
$ 10,001	-	$ 15,000	1,884	1,937
15,001	-	20,000	1,137	1,187
20,001	-	25,000	615	810
25,001	-	30,000	439	546
30,001	-	35,000	281	434
35,001	-	40,000	245	354
40,001	-	45,000	159	208
45,001	-	50,000	98	117
50,001	-	55,000	69	115
55,001	-	60,000	59	72
60,001	-	65,000	52	59
65,001	-	70,000	32	47
70,001	-	75,000	25	45
75,001	-	80,000	14	23
80,001	-	85,000	19	14
85,001	-	90,000	12	15
90,001	-	95,000	5	6
95,001	-	100,000	5	5
100,001	-	110,000	5	2
		Total	**5,155**	**6,002**
Total machines (All categories)			**11,101**	**12,384**

[1] Includes machines operating in the same location for an entire year.

About half of the video gambling machines operating in the same location during fiscal year 1993 or 1994 had gross incomes of $10,000 or less. Approximately one-fourth of all machines (3,021 and 3,024 for fiscal years 1993 and 1994, respectively) fall into the $10,0001 to $20,000 income range.

Table 4.3 on the following page provides fiscal year 1993 and 1994 data on total video gambling machine gross income (i.e., money put into the machines minus credits paid out in cash) received by establishments that had at least one machine operating for 90 days or more in each quarter of the fiscal year.

TABLE 4.3
Number of Establishments[1]
By Annual Video Gambling Machine Gross Income
Fiscal Years 1993 and 1994

Annual Gross Income			Number of Establishments			
			FY 93	% of Total	FY 94	% of Total
$ 0	-	$ 1,000	5		4	
1,001	-	2,000	9		7	
2,001	-	3,000	9		14	
3,001	-	4,000	26		18	
4,001	-	5,000	13		16	
5,001	-	6,000	20		14	
6,001	-	7,000	10		16	
7,001	-	8,000	15		14	
8,001	-	9,000	15		11	
9,001	-	10,000	20		18	
10,001	-	11,000	16		14	
11,001	-	12,000	18		7	
12,001	-	13,000	11		12	
13,001	-	14,000	16		10	
14,001	-	15,000	14		18	
15,001	-	16,000	14		20	
16,001	-	17,000	11		9	
17,001	-	18,000	7		17	
18,001	-	19,000	14		12	
19,001	-	20,000	12		12	
20,001	-	21,000	9		10	
21,001	-	22,000	12		11	
22,001	-	23,000	10		12	
23,001	-	24,000	7		18	
24,001	-	25,000	19		8	
		Total	332	35%	322	31%
$ 25,001	-	$ 50,000	201		214	
50,001	-	75,000	129		122	
75,001	-	100,000	65		81	
		Total	395	42%	417	40%
$ 100,001	-	$ 125,000	45		52	
125,001	-	150,000	22		31	
150,001	-	175,000	20		34	
175,001	-	200,000	16		18	
200,001	-	225,000	12		17	
225,001	-	250,000	10		15	
250,001	-	275,000	5		11	
275,001	-	300,000	7		7	
300,001	-	400,000	27		37	
400,001	-	500,000	15		18	
500,001	-	600,000	10		22	
600,001	-	700,000	5		10	
700,001	-	800,000	11		11	
800,001	-	900,000	4		7	
900,001	-	1,000,000	1		4	
1,000,001	-	1,100,000	1		2	
1,100,001	-	1,200,000	1		3	
1,200,001	-	1,300,000	5		2	
1,300,001	-	1,400,000	2		3	
1,400,001	-	1,500,000	0		1	
>1,500,000			0		0	
		Total	219	23%	305	29%
		Grand Total	946	100%	1044	100%

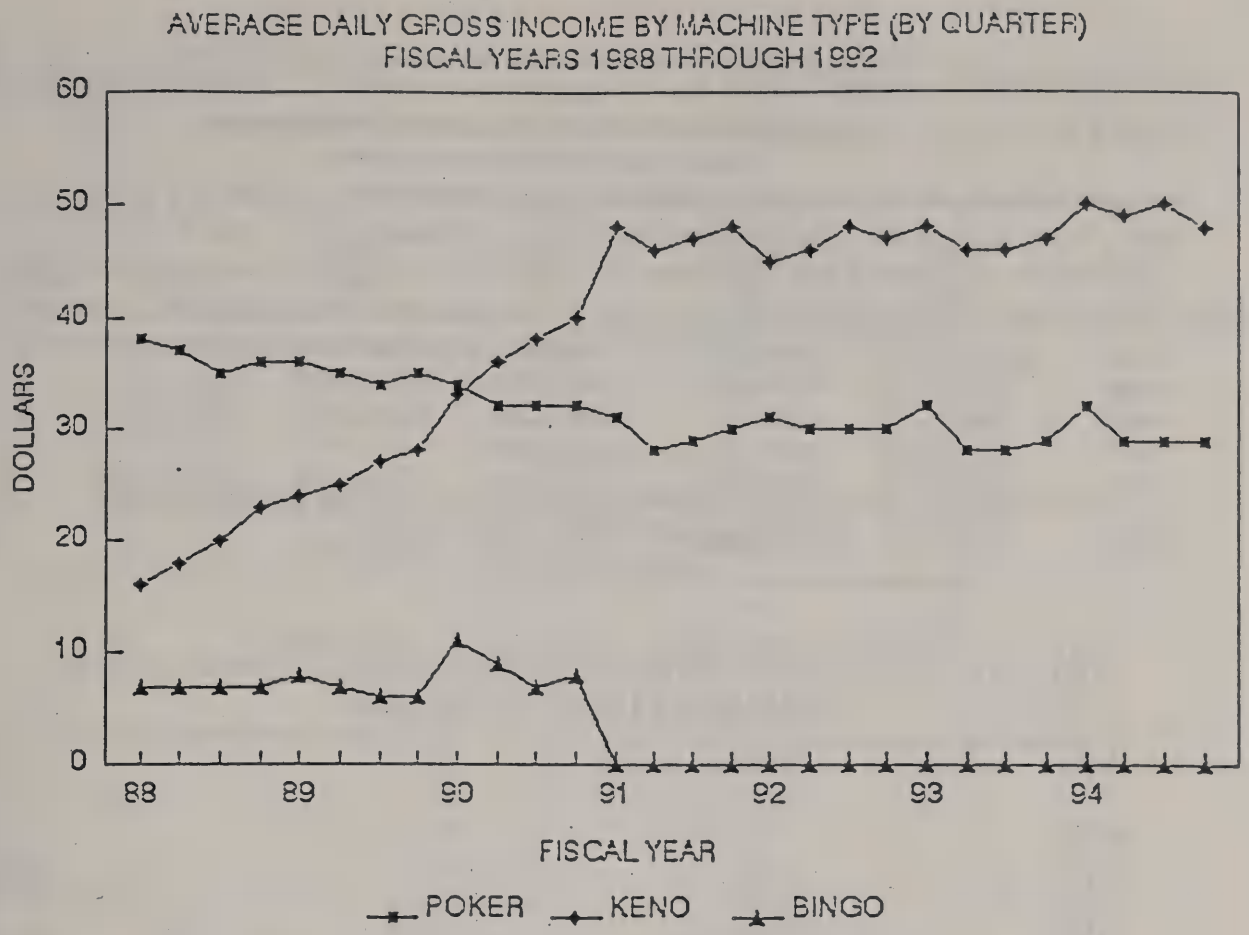
[1] Establishments with one or more machines operating for 90 days in each quarter.

Table 4.4 below and the graph on the following page provide data on the average daily gross income for video gambling machines by machine type and by quarter for fiscal years 1988 through 1994.

TABLE 4.4
Average Daily Gross Income by Machine Type
Fiscal Years 1988 Through 1994

Fiscal Yr	Quarter	Poker	Keno	Bingo
1988	1st	$38	$16	$7
	2nd	37	18	7
	3rd	35	20	7
	4th	36	23	7
1989	1st	$36	$24	$8
	2nd	35	25	7
	3rd	34	27	6
	4th	35	28	6
1990	1st	$34	$33	$11
	2nd	32	36	9
	3rd	32	38	7
	4th	32	40	8
1991	1st	$31	$48	$-[1]
	2nd	28	46	-
	3rd	29	47	-
	4th	30	48	-
1992	1st	$31	$45	-
	2nd	30	46	-
	3rd	30	48	-
	4th	30	47	-
1993	1st	$32	48	-
	2nd	28	46	-
	3rd	28	46	-
	4th	29	47	-
1994	1st	$32	50	-
	2nd	29	49	-
	3rd	29	50	-
	4th	29	48	-

[1] No approved bingo machines operating in the state beginning first quarter of fiscal year 1991.

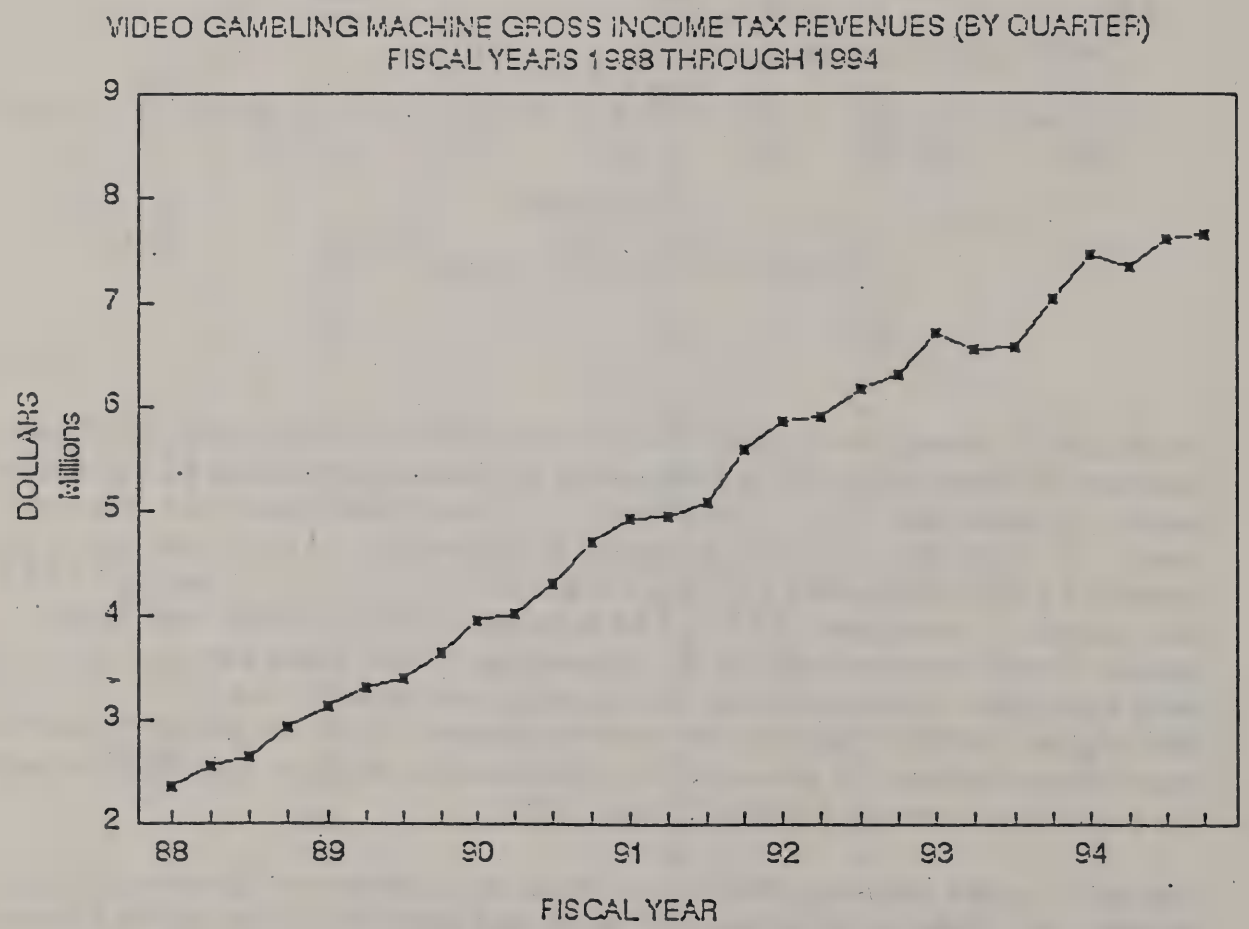


As illustrated above, the average daily gross income for video poker machines has gradually declined from $38 in first quarter of fiscal year 1988 to $28 in second quarter of fiscal year 1991. Since fourth quarter of fiscal year 1991, the daily income for poker machines has stabilized at around $30. In contrast, video keno machines have experienced a steady increase in daily gross income from $16 in first quarter of fiscal year 1988 to $48 in fourth quarter of fiscal year 1994. Several factors may account for the differences in daily gross between poker and keno machines. Keno machines, for instance, may attract more play because of their higher maximum payout (i.e, $800 for keno vs. $100 for poker). It will be interesting to review the average daily gross income for video poker machines after the payout increases to $800 in October 1995.

The tax on video gambling machines is equal to 15 percent of gross machine income. It is collected on a quarterly basis, and payment is due within 15 days after the end of the quarter. The following table and graph show the video gambling machine tax revenue collected by quarter from fiscal year 1988 through 1994.

TABLE 4.5
Video Gambling Machine Gross Income Tax Revenues
Fiscal Years 1988 Through 1994

Fiscal Year	First Qtr	Second Qtr	Third Qtr	Fourth Qtr	Total	% Change
1988	$2,360,145	$2,548,145	$2,656,831	$2,938,063	$10,504,037	-
1989	3,136,329	3,309,638	3,401,053	3,644,534	13,491,554	28%
1990	3,949,782	4,024,386	4,317,195	4,713,132	17,004,495	26%
1991	4,919,102	4,959,603	5,082,883	5,595,073	20,556,661	21%
1992	5,866,027	5,906,815	6,180,904	6,306,192	24,259,938	18%
1993	6,698,211	6,538,173	6,560,840	7,041,764	26,838,988	11%
1994	7,451,739	7,338,880	7,603,432	7,658,536	30,052,587	12%



As noted in Table 4.5, tax revenues have almost tripled between fiscal years 1988 and 1994. However, the annual rate of increase has declined during this period.

One-third of the tax revenue from video gambling machines is deposited into the state general fund. The remaining two-thirds is distributed to the county[12], city, or town where each machine is located for deposit in the county or municipal treasury. Table 4.6 lists the amount of tax revenue distributed to the state general fund and local governments in fiscal years 1988 through 1994.

TABLE 4.6
Distribution of Video Gambling Machine Gross Income Tax Revenue
Fiscal Years 1988 Through 1994
(In Millions)

Fiscal Year	State Gen. Fund (1/3)	Local Gov't. (2/3)	Total
1988	$3.5	$ 7.0	$10.5
1989	4.4	8.9	13.3
1990	5.7	11.3	17.0
1991	6.8	13.7	20.5
1992	8.1	16.1	24.2
1993	8.9	17.9	26.8
1994	10.0	20.0	30.0

Live bingo and keno taxes. From July 1, 1989, through June 30, 1991, the tax on live bingo and keno was equal to the greater of one percent of the gross proceeds from the game (i.e., gross revenue received minus prizes paid out) or five percent of the net game income (i.e., gross proceeds minus allowable expenses). In 1991, the Legislature eliminated the five percent tax on net income and retained the one percent tax on gross proceeds effective July 1, 1991.

The following groups are exempt from the live bingo and keno tax: nonprofit organizations qualified under 26 U.S.C. 501(c)(3), (4), (8), or (19); long-term care facilities; retirement homes; and senior citizen centers.

Live bingo and keno tax revenues are distributed to the county, city, or town in which the licensed game is located for deposit in the county or municipal treasury.

[12] A county receives income from those machines operating within its boundaries that are not located in an incorporated city or town.

Table 4.7 shows the live bingo and keno tax revenue collected for fiscal years 1990 through 1994.

TABLE 4.7
Live Bingo and Keno Tax Revenues
Fiscal Years 1990 Through 1994

Fiscal Year	Game Type	No. of Returns	Gross Proceeds Reported	Tax: @ 1%	Tax: @ 5%
1990	Bingo	57	$1,351,462	$13,517	$3,664
	Keno	59	1,486,962	13,897	3,660
	Totals	116	$2,838,424	$27,414	$7,324
1991	Bingo	68	$2,257,952	$19,710	$8,838
	Keno	56	1,795,333	17,408	1,643
	Totals	124	$4,053,285	$37,118	$10,481
1992	Bingo	53	$2,269,708	$22,697	-[1]
	Keno	46	1,646,105	16,461	-
	Totals	99	$3,915,813	$39,158	-
1993	Bingo	49	$2,110,600	$21,106	-
	Keno	43	1,438,100	14,381	-
	Totals	92	$3,548,700	$35,487	-
1994	Bingo	34	$1,717,400	$17,174	-
	Keno	40	1,355,400	13,554	-
	Totals	74	$3,072,800	$30,728	-

[1] The 5% tax on net income was eliminated effective July 1, 1992.

According to the total gross proceeds reported, the average annual gross proceeds generated per bingo game was $23,710 in fiscal year 1990; the average per keno

game was $25,203. These figures increased to $50,512 for bingo and $33,885 for keno in fiscal year 1994.

Sports tab card tax. A licensed sports tab card manufacturer who sells sports tabs to a licensed operator must collect from the operator, at the time of sale, a tax of $1 for each 100 sports tabs sold. Within 15 days after the end of each calendar quarter, the manufacturer must submit to the Gambling Control Division the tax revenue collected. The Division retains the tax revenues for administrative purposes. In fiscal year 1992, the first year that the tax was effective, the Division received $8,642 in tax revenues. In fiscal year 1994 the Division received $2,304 in tax revenues.

B. Gambling Permit Fees

The Gambling Control Division collects permit fees on the following gambling activities:

- video gambling machines;
- live bingo and keno games;
- live card game tables;
- card game tournaments; and
- casino nights.

The following sections describe the permit fees collected by the Division. A summary of these gambling permits is contained in Appendix B.

Video gambling machine permit fees. The annual permit fee for a video gambling machine is $200. Effective July 1, 1991, the fee was prorated on a quarterly basis. One-half of the permit fee is retained by the Gambling Control Division. The remainder is distributed on a quarterly basis to the county, city, or town where each machine is located for deposit in the county or municipal treasury. The table on the following page shows the video gambling machine permit fee revenues collected for fiscal years 1990 through 1994.

TABLE 4.8
Video Gambling Machine Permit Fee Revenues
Fiscal Years 1990 Through 1994

Fiscal Year	Qtr.	Amount Collected	Amt. to Local Gov't. & Gambling Control Division (each)
1990	1st	$1,880,600	$ 940,300
	2nd	44,800	22,400
	3rd	141,800	70,900
	4th	126,600	63,000
	Total	$2,193,800	$1,096,600
1991	1st	$2,060,800	$1,030,400
	2nd	186,800	93,400
	3rd	179,800	89,900
	4th	103,000	51,500
	Total	$2,530,400	$1,254,200
1992	1st	$2,350,500	$1,175,250
	2nd	116,850	58,425
	3rd	96,500	48,250
	4th	45,400	22,700
	Total	$2,609,250	$1,304,625
1993	1st	$2,633,200	$1,316,600
	2nd	171,450	85,725
	3rd	101,000	50,500
	4th	58,700	29,350
	Total	$2,964,350	$1,482,175
1994	1st	$2,796,600	$1,398,300
	2nd	130,500	65,250
	3rd	99,700	49,850
	4th	55,950	27,975
	Total	$3,082,750	$1,541,375

Live bingo and keno game permit fees. Before July 1, 1991, the annual permit fee for conducting a live bingo game, keno game, or both games was $500. The fee was reduced to $250 for permits issued on or after July 1, 1991. Nonprofit organizations qualified under 26 U.S.C. 501(c)(3), (4), (8), or (19) that qualified for the federal exemption on or before January 15, 1989; long-term care facilities; retirement homes; and senior citizen centers are exempt from the permit fee. Nonprofit organizations that qualified for the federal exemption after January 15, 1989, are exempt from one-half of the fee (i.e., $125). The Gambling Control Division retains the fee for administrative purposes. Table 4.9 lists the live bingo and keno fees collected for fiscal years 1990 through 1994.

TABLE 4.9
Live Bingo and Keno Permit Fee Revenues
Fiscal Years 1990 Through 1994[1]

Fiscal Year	Bingo	Keno	Both	Total
1990	$27,000	$26,000	$5,500	$58,500
1991	29,500	24,500	6,000	60,000
1992	12,250	11,000	1,500	27,750
1993	10,750	10,000	2,500	23,250
1994	9,000	9,750	2,250	21,000

[1] The permit fee was $500 for fiscal years 1990 and 1991 and $250 for fiscal year 1992, 1993, and 1994.

Live card game table permits fees. The annual permit fee for a live card game is $250 for the first table operating in an establishment and $500 for each additional table. The Gambling Control Division retains $100 of the fee for administrative purposes. The remainder is distributed on a quarterly basis to the county, city, or town where the card game table is located for deposit in the county or municipal treasury. The table on the following page lists the card table permit fees collected for fiscal years 1990 through 1994.

TABLE 4.10
Live Card Game Table Permit Fee Revenues
Fiscal Years 1990 Through 1994

Fiscal Year	Qtr.	Amount Collected	DISTRIBUTION: Local Gov't.	DISTRIBUTION: Gambling Control Division
1990	1st	$73,000	$48,900	$24,100
	2nd	5,000	3,100	1,900
	3rd	7,500	5,100	2,400
	4th	2,500	1,600	900
	Total	$88,000	$58,700	$29,300
1991	1st	$67,500	$44,500	$23,000
	2nd	8,000	5,000	3,000
	3rd	4,750	3,150	1,600
	4th	3,250	2,150	1,100
	Total	$83,500	$54,800	$28,700
1992	1st	$69,250	$45,850	$23,400
	2nd	6,500	4,300	2,200
	3rd	4,000	2,600	1,400
	4th	3,500	2,050	1,450
	Total	$83,250	$54,800	$28,450
1993	1st	$70,500	$46,900	$23,600
	2nd	4,750	3,150	1,600
	3rd	6,500	4,500	2,000
	4th	1,500	1,000	500
	Total	$83,250	$55,550	$27,700
1994	1st	$65,250	$43,650	$21,600
	2nd	5,750	3,650	2,100
	3rd	5,500	3,900	1,600
	4th	3,000	2,000	1,000
	Total	$79,500	$53,200	$26,300

Permit fees for occasional gambling activities. In addition to the annual permit fees addressed above, the Gambling Control Division collects permit fees for card game tournaments and casino nights. The fee for a tournament permit is $10; a casino night permit costs $25. The Division retains the permit fees for administrative purposes.

The Division collected $670 in card game tournament permit fees in fiscal year 1993 and $1,050 in fiscal year 1994. In fiscal years 1993 amd 1994 the Division collected $350 in permit fees for casino night permits.

C. Gambling License Fees

The Gambling Control Division charges a processing and/or license fee for issuing the following licenses:

- operator;
- card dealer;
- card room contractor;
- manufacturer, or distributor, or route operator;
- manufacturer of illegal gambling devices;
- sports tab card manufacturer;
- electronic live bingo and keno equipment manufacturer; and
- antique slot machine dealer.

Fees charged for issuing these licenses are retained by the Division to cover expenses incurred in issuing the licenses. A summary of gambling licenses is contained in Appendix C.

Operator's license fees. Effective July 1, 1991, the Gambling Control Division began collecting a fee for processing an operator's license application to cover the actual cost of determining whether the applicant qualified for licensure. An applicant is required to pay a deposit on the processing fee when the application is submitted. The deposit is $500 for a partnership or corporation; $400 for a sole proprietorship; and $50 for a nonprofit organization. The Division refunds any overpayment of the processing fee or collects an amount sufficient to reimburse the Division for any underpayment of actual costs. The Division collected $97,804.88 in processing fees in fiscal year 1993, and $108,546.19 in fiscal year 1994.

Card dealer's license fees. A first-time applicant for a card dealer's license must pay a license fee of $75. Thereafter, a license may be renewed annually for $25. The Gambling Control Division collected $19,705 in card dealer's license fees in fiscal year 1993, and $19,125 in fiscal year 1994.

Card room contractor's license fees. Effective July 1, 1991, the Gambling Control Division began issuing card room contractor's licenses. A fee of $150 is charged for the license. The Division collected $2,700 in card room contractor's license fees in fiscal year 1993, and $3,450 in fiscal year 1994.

Manufacturer's, distributor's and route operator's license fees. The Gambling Control Division charges $1,000 annually for issuing each of the following licenses: manufacturer's, distributor's, route operator's, manufacturer of illegal gambling devices,[13] sports tab card manufacturer, and electronic live bingo and keno equipment manufacturer. In addition, the applicant must pay a one-time processing fee equal to the actual cost of determining whether the applicant qualifies for licensure. A $1,000 deposit on the processing fee is required at the time of application. The applicant receives a refund of any overpayment of the processing fee or must pay an additional amount to reimburse the Division for any underpayment of actual costs. For these types of licenses, the Division collected $181,968 in licensing and processing fees in fiscal year 1993, and $189,739 in fiscal year 1994.

Antique slot machine dealer's license. The cost of an antique slot machine dealer's license is $50 per year. The Gambling Control Division was authorized to begin issuing these licenses on July 1, 1991. No licenses were issued in fiscal years 1991 and 1992. The Division collected $150 in licensing fees in fiscal year 1993, and $150 in fiscal year 1994.

D. Distribution of Gambling Revenues

As noted in the previous sections, gambling revenues are distributed to three entities: local governments, the gambling control special revenue account; and the state general fund. The table and graph on the following pages provide data on the distribution of taxes, permit fees, and license fees for fiscal year 1994.

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[13] The annual license fee and processing fee for a license to manufacture illegal gambling devices is waived if the applicant has a manufacturer's license.

TABLE 4.11
Distribution of Gambling Revenues
Fiscal Year 1994

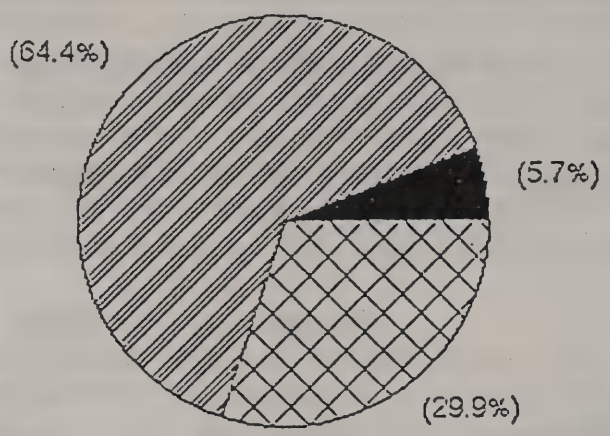
Revenue Source	Total Distributed	Local Gov't.	Gambling Control Account	General Fund
VGM* tax	$30,052,587	$20,020,455	0	$10,032,132
Bingo/keno tax	30,728	30,728	0	0
Sports tab tax	2,304	0	2,304	0
VGM* permit fees	3,082,750	1,541,375	1,541,375	0
Bingo/keno permit fees	21,375	0	21,375	0
Card table permit fees	79,500	53,200	26,300	0
Casino night permit fees	350	0	350	0
Antique slot dealer	150	0	150	0
Operator lic. fees	108,546	0	108,546	0
Card dealer lic. fees	19,125	0	19,125	0
Card room contractor fees	3,450	0	3,450	0
Manufacturer[1] lic. fees	189,739	0	189,739	0
Totals	$33,590,604	$21,645,758	$1,912,714	$10,032,132

*VGM = Video gambling machine

[1] Includes fees from the following licenses: manufacturer, distributor, route operator, manufacturer of illegal gambling devices, sports tab card manufacturer, and manufacturer of electronic live bingo and keno equipment.

DISTRIBUTION OF GAMBLING REVENUES

Fiscal Year 1994



Gambling Control Division $1.91 Million
Local Government $21.65 Million
State General Fund $10.03. Million

As reflected in the above graph, local governments are the biggest recipient of gambling revenues.

V. DIVISION ACTIVITIES

A. Introduction

The Gambling Control Division, as established in July 1989, consisted of two bureaus (i.e., Investigation; Licensing and Tax), an audit program, and an administrative unit. In an effort to improve delivery of services, the Division reorganized in September 1991. The former Licensing and Tax Bureau was divided into two sections, Licensing and Technical Services. The Bureau's tax functions were transferred to the audit program, which then became the Tax and Audit Section.

In addition to reorganizing sections, the Division implemented a regional plan in March 1992, involving field office personnel and licensing staff in the Helena office. The purpose of the regional approach was to form a team who could work together to assist licensees in a given geographic area. The state was divided into three districts: western,[14] eastern,[15] and southern[16]. A revenue field agent, a licensing specialist in Helena, a district investigation supervisor, and three to four investigators were then assigned to each district.

Legislative approval in 1991 for hiring five more staff persons allowed the Division to implement the regional plan. An investigator was hired to staff a field office in Kalispell. Another investigator was added to the Billings office. The Division hired a revenue agent to work out of the Missoula office to serve the western district; another agent was transferred from Helena to Great Falls. The remaining new positions, a gambling device inspector and a data processing clerk, were not filled until fiscal year 1993 for vacancy savings reasons.

The 1993 Legislative session approved the consolidation of Liquor and gambling investigations. Six investigators and two support staff positions were moved from the Department of Revenue to the Division; all but one of the Helena positions was moved out to field offices. Although workload has remained the same, license applicants no longer have to undergo two different investigations and be

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[14] The western district consists of Lincoln, Flathead, Sanders, Lake, Mineral, Missoula, Ravalli, Lewis and Clark, Powell, Jefferson, Granite, Deer Lodge, Silver Bow, and Beaverhead Counties.

[15] The eastern district consists of Glacier, Toole, Liberty, Hill, Blaine, Pondera, Chouteau, Teton, Cascade, Judith Basin, Phillips, Valley, Wibaux, Daniels, Sheridan, Roosevelt, Dawson, Fergus, Petroleum, Garfield, McCone, and Richland Counties.

[16] The southern district consist of Meagher, Broadwater, Wheatland, Madison, Gallatin, Park, Sweet Grass, Golden Valley, Musselshell, Rosebud, Stillwater, Yellowstone, Treasure, Carbon, Big Horn, Prairie, Custer, Fallon, Powder River, and Carter Counties.

interviewed by different investigators.

B. Licensing

The Licensing Section, consisting of a section supervisor, three licensing specialists, and an administrative clerk, is responsible for processing and issuing gambling licenses and permits and providing information and assistance to licensees. The Section also collects and distributes license and permit fees and maintains licensee records. The Section's activities during fiscal years 1991 through 1994 are described in Table 5.1.

TABLE 5.1
Licensing Section Activities
Fiscal Years 1991 through 1994

	FY 1991	FY 1992	FY 1993	FY 1994
Licenses Issued	2,813	2,450	1,884	1,862
Game Permits Issued	13,191	14,972	16,917	17,449
Fees Collected	$2,613,900	$2,692,500	$2,964,350	$3,082,750

C. Tax and Audit

The Tax and Audit Section consists of a Section supervisor, two compliance specialists, and four revenue agents. The revenue agents are located in Missoula, Billings, Great Falls, and Helena. The Section assists in licensing applicants by conducting financial background reviews. It is also collects and distributes gambling taxes and conducts office and field tax audits. Another duty of the section is to provide support to the Investigation Bureau in interpreting and analyzing documents seized from suspected illegal gambling activities. Additionally, the Section provides budget management services for the Division. Statistics relating to the Section's activities are provided on the following page.

TABLE 5.2
Tax and Audit Section Activities
Fiscal Years 1993 and 1994

	FY 93	FY 94
Financial reviews of license renewals	423	394
Financial reviews of new applications	363	358
Taxes collected/distributed (in millions)	$26.8	$30.0
Desk audits conducted	2,296	2,480
Field audits conducted	52	48

In fiscal years 1993 and 1994, office-based audits resulted in the assessment of $612,000 including tax and penalties. During this same period, the Section assessed $92,274 in additional taxes and penalties as a result of field audits.

D. Technical Services

The Technical Services Section consists of a Section Supervisor, an Information Systems Specialist, a Gaming Machine Tester, a Gambling Device Inspector and an Information Systems Tech; all people are based in Helena. The Technical Services Section provides the primary technical resource for the Gambling Control Division. Major responsibilities include data processing, gambling device testing and inspecting, tracking gambling device movements/service, and computer support and training.

Gambling device testing is performed for Montana and under contract for Reservations and other State governments. Compliance verification, testing and approval of gambling devices and modifications is completed prior to their duplicates being manufactured, sold, licensed and operated in the state. Machine manufacturers are assessed hourly charges for testing gambling devices and modifications to cover the actual cost of testing. In FY93, the Section tested seven new models and 277 modifications to approved models. Four new models and 191 modifications were tested in FY94. On an average, it takes 70 days for the Technical Services Section to test a new gambling device. Cosmetic

modifications are approved on a next-day basis.

Gambling device inspections are performed randomly and in response to complaints from the public. In FY93, 1,676 devices were inspected and 890 correction notices were issued. In FY94, 1,557 devices were inspected and 946 correction notices were issued.

Technical Services provides computer and data processing support/service for 55 users in both the Gambling and Liquor Divisions, and 12 local area networks (LANS) located throughout the State. The UNIX and Novell LANS communicate via modems and dedicated lines to form a wide area network providing word processing, electronic mail and Gambling Control Division database access for all users.

E. Investigations

GAMBLING:

Before a gambling license is issued, the Investigation Bureau conducts a criminal background check on the applicant and conducts a thorough investigation of the application and individuals or entities wishing a gambling license. The Bureau conducts criminal investigations of alleged violations of state gambling statutes and administrative rules on all licensees residing in the state and of licensed entities outside the state doing business in Montana.

The Bureau also conducts routine inspections of licensed establishments as well as inspecting proposed gambling establishments. Other Bureau duties include evaluating variations of legal gambling activities submitted for approval and providing local law enforcement training. Presently, four Bureau employees work in the Helena office: a Bureau Chief, administrative assistant, and two administrative support positions. An additional administrative support position is located in the Billings district office. Seventeen investigators are assigned to nine field offices; the field offices are organized into three districts, each of which is managed by a district supervisor.

LIQUOR:

In addition to the gambling duties of the Bureau, the 1993 Legislature enacted legislation transferring the Liquor investigation program from the Department of Revenue to the Department of Justice Gambling Control Division; five investigators and two support positions transferred to the Bureau. The Bureau now is responsible for conducting liquor licensing investigations and reporting back to the Liquor Control Division on the suitability of the applicant.

The field offices are located in Kalispell, Missoula, Butte, Glasgow, Great Falls, Billings, Miles City, and Bozeman. Statistics on Bureau activities are contained in Table 5.3.

TABLE 5.3
Investigation Bureau Activities
Fiscal Years 1991 through 1994

	FY 1991	FY 1992	FY 1993	FY 1994
License investigations conducted:[1]	245	761		
Liquor: *	NA	NA	340	363
Gambling: *	NA	NA	298	223
Mfg/Dist/Rte Operators:	NA	NA	35	16
Card Room Contractors:	NA	NA	17	11
Dealers:	NA	NA	414	270
Licensee criminal background investigations conducted:[2]	1517	1681		
Liquor: **	NA	NA	853	589
Gambling: **	NA	NA	1,631	1,277
Premises inspections conducted	357	459	561	429
Video gambling machines inspected	665	508	343	52
Civil correction notices issued	268	156	146	128
Civil violation notices issued	38	20	62	30
Criminal investigations conducted	456	433	368	237

[1] This number was not broken down for FY91 and FY92
[2] This number was not broken down for FY91 and FY92
* There could be duplicates among these two categories
** There could be duplicates among these two categories

F. Administration

The administrative unit, which consists of the Division administrator, two staff attorneys, administrative officer, administrative secretary, and receptionist, manages the over-all operations of the Division.

During the biennium, the administrative unit oversaw adoption of administrative rules, primarily to reflect new legislation. The rules implemented statutory changes adopted by the 1993 Legislature and addressed such subjects as manufacturer, distributor and route operator licenses, disclosure of non-institutional lenders, withdrawal of application and rules for reapplication, transfer of interest in a license, loans to licensees, poker runs, conduct of sports pools for pig, gerbil, and hamster races, approval of promotional games of chance, and carnival games review.

The unit also works closely with the Gaming Advisory Council, a nine-member policy group established by law to study all aspects of gambling in Montana. The unit represented the Division at Council meetings and provided staff services to the Council.

Another major duty assigned to the unit is to initiate administrative action against licensees for violations of the gambling laws and rules and to represent the Division in administrative proceedings. See Appendix D for enforcement statistics.

Also during the biennium, the administrative unit continued to be actively involved with state-tribal gaming compact negotiations. The Indian Gaming Regulatory Act (IGRA), enacted by Congress in 1988, directs the state, upon request of a tribe, to enter into negotiations on the conduct of Class III gaming on the tribe's reservation. Class III gaming, as defined under IGRA, includes games such as live keno, video gambling machines, lottery, and horse racing. The information below provides the status of compact negotiations:

EXISTING MONTANA CLASS III COMPACTS:

Assiniboine & Sioux Tribes
Fort Peck Council

Crow Tribe
Crow Tribal Council

Chippewa-Cree Tribe
Chippewa Cree Tribal Council

Northern Cheyenne Tribe
Northern Cheyenne Tribal Council

IN NEGOTIATIONS (AS OF APRIL 1995):

Gross Ventre & Assiniboine Tribes
Fort Belknap Community Council

NO COMPACT:

Salish & Kootenai Tribes
Confederated Salish & Kootenai Tribes

Blackfeet Tribe
Blackfeet Tribal Business Council

The State has negotiated for types of games that are legal in the state. With regard to conditions of play, the State has allowed $1,000 payouts for video gambling machines and up to 100 video gambling machines depending on site-specific circumstances to be placed in each premises. The State is currently in litigation with the following tribes over the issue of negotiating in good faith: Confederated Salish & Kootenai (Flathead), Blackfeet, and Gross Ventre & Assiniboine (Fort Belknap). In the absence of a compact, Class III gaming cannot be conducted on a reservation.

APPENDIX A

GAMBLING TAXES

TYPE	AMOUNT	DISTRIBUTION	STATUTORY CITE (MCA)
Live Bingo/ Keno	1% of gross proceeds (pd. annually)[1]	100% to local governments	23-5-409, MCA
Video Gambling Machine	15% of gross machine income (pd. quarterly)	33 1/3% to state general fund and 66 2/3% to local governments	23-5-610, MCA
Sports Tab Cards	$1/sports tab card (pd. annually)	100% retained by Dept. of Justice	23-5-502, MCA

[1]An organization qualified for exemption under 26 U.S.C. 501(c)(3), (c)(4), (c)(8), or (c)(19) or a senior citizen center, retirement home, or nursing home is exempt from the live bingo/keno tax (23-5-406 and 410, MCA).

APPENDIX B

GAMBLING PERMITS

STATUTORY TYPE	COST	DISTRIBUTION	CITE (MCA)
Live Card Game Table	$250/yr for 1st table $500/yr for each add'l table[1]	$100/table retained by Dept. of Justice with remainder to local governments	23-5-306, MCA
Live Bingo/ Keno	$250/yr for each premises[2]	100% retained by Dept. of Justice	23-5-407, MCA
Video Gambling Machine	$200/yr for each machine	50% retained by Dept. of Justice with remainder to local governments	23-5-612, MCA
Live Card Game Tournament	$10/tournament	100% retained by Dept. of Justice	23-5-317, MCA
Casino Night	$25/casino night	Same as above	23-5-705, MCA

[1]A senior citizen center is exempt from the live card game table fee. (23-5-310, MCA)

[2]An organization qualified for exemption under 26 U.S.C. 501(c)(3), (c)(4), (c)(8), or (c)(19) on 01/15/89 or a senior citizen center, retirement home, or nursing home is exempt from the live bingo/keno permit fee. A 26 U.S.C. 501(c)(3), (c)(4), (c)(8), or (c)(19) organization qualified for federal exemption after 01/15/89 is exempt from one-half the permit fee. (23-5-406 and 410, MCA)

APPENDIX C

GAMBLING LICENSES

TYPE	COST	DISTRIBUTION	STATUTORY CITE (MCA)
Operator	One-time application fee commensurate with processing costs	100% retained by Dept. of Justice	23-5-177, MCA
Card Dealer	$75 1st year[1] $25 to renew	Same as above	23-5-308, MCA
Card Room Contractor	$150/yr	Same as above	23-5-324, MCA
Manufacturer, Distributor, or Route Operator	One-time application fee commensurate with processing costs plus $1,000/yr license fee	Same as above	23-5-625, MCA 23-5-128, MCA 23-5-129, MCA
Manufacturer of Gambling Devices Not Authorized in Montana	Same as above[2]	Same as above	23-5-152, MCA
Electronic Live Bingo/Keno Equipment Manufacturer	Same as above	Same as above	23-5-424, MCA
Sports Tab Card Manufacturer	Same as above	Same as above	23-5-115,502, 503, MCA

[1]No fee is charged for a 90-day temporary card dealer license. (23-5-308, MCA)

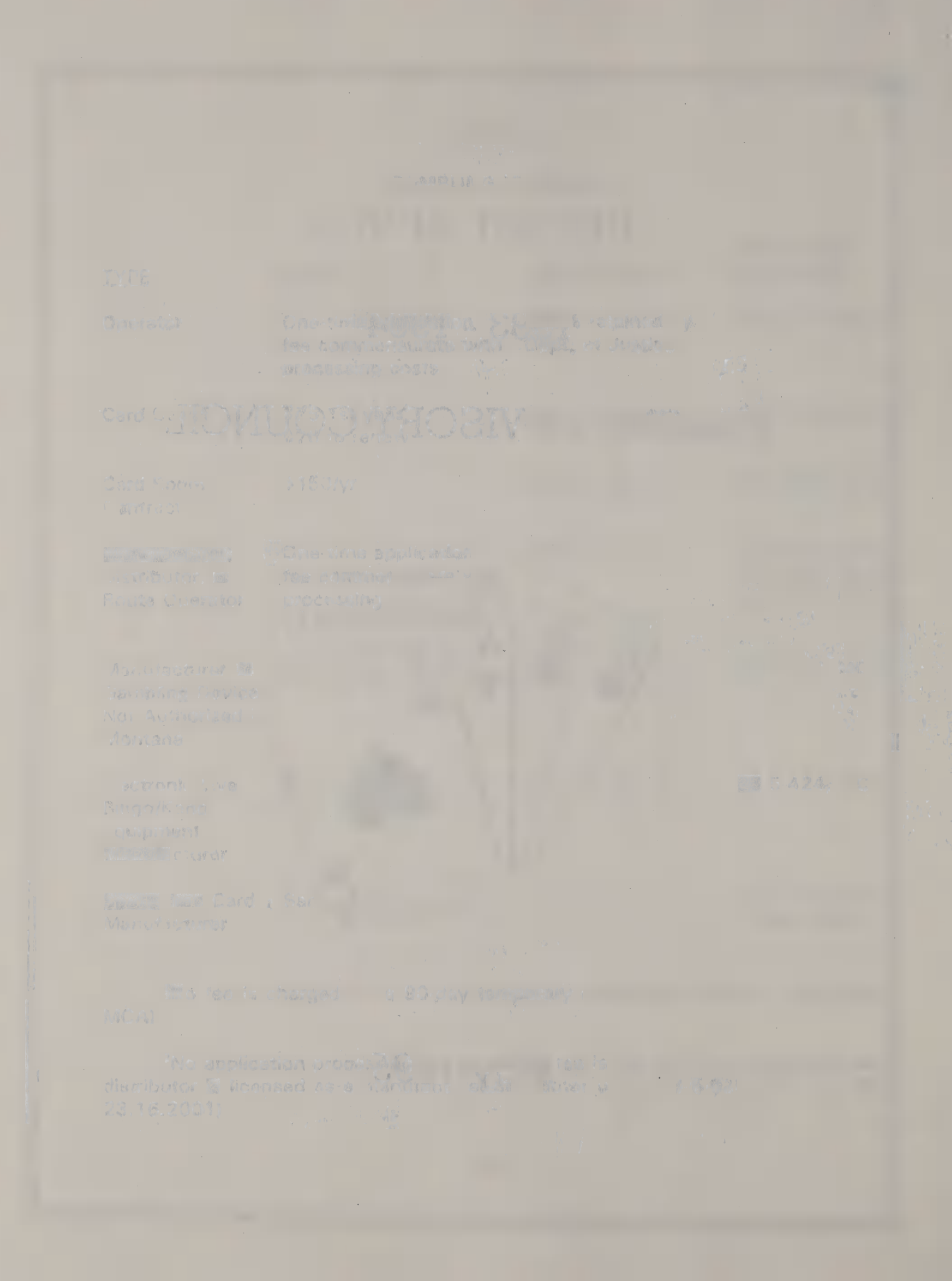
[2]No application processing fee or license fee is charged if the manufacturer-distributor is licensed as a manufacturer-distributor under 23-5-625, MCA. (ARM 23.16.2001)

REPORT OF THE

1993 - 1994

GAMING ADVISORY COUNCIL

May 1995



MEMBERSHIP
GAMING ADVISORY COUNCIL

JOHN BLAIR, CHAIRMAN

JEAN AGATHER, CO-CHAIRMAN

WILMER ZELLER

COUNTY ATTORNEY
GEORGE CORN*

NATIVE AMERICAN REPRESENTATIVE*****

SEN. BOB PIPINICH**

REP. ROYAL JOHNSON***

DARRELL KECK

CLINT LOHMAN****

*REPLACED COUNTY ATTORNEY JAMES NELSON
**REPLACED SEN. BILL YELLOWTAIL
***REPLACED REP. RUSSELL FAGG WHO HAD REPLACED REP. BILL STRIZICH
****REPLACED GERALD DUNBAR
*****CARL VENNE RESIGNED IN APRIL 1994 AND THIS POSITION IS VACANT

STAFF ASSISTANCE PROVIDED BY:

GAMBLING CONTROL DIVISION
DEPARTMENT OF JUSTICE

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I. INTRODUCTION

In 1989, the Montana Legislature adopted Senate Bill No. 431[17], a comprehensive revision of the state's gambling laws. Senate Bill No. 431 centralized regulation and control of all gambling activities, except for the lottery and horse racing, under the Department of Justice. The bill also provided for appointment of the Gaming Advisory Council.

The statutory duties assigned to the Council were multi-fold: to hold meetings and incur necessary expenses to study all aspects of gambling in Montana; to review and comment on administrative rules proposed by the Department; and to submit an annual report[18] to the Department of Justice and the Legislature with recommendations regarding the state's gambling laws and the Department's administrative rules and operations.

The Gaming Advisory Council consists of nine members: one member each from the Senate and House of Representatives, one public member, two local government representatives, one Native American representative, and three gaming industry representatives. The Senate Committee on Committees and the Speaker of the House appoint the legislators to the Council, while the remaining members are selected by the Attorney General. Each member serves a three-year term.

During the 1993-1994 Biennium, the legislative appointees to the Council were Senator Bill Yellowtail (Wyola) and Representative Bill Strizich (Great Falls). Both Strizich and Yellowtail resigned from the Council to take new jobs with the federal government and were replaced by Senator Bob Pipinich (Missoula), and Representative Russell Fagg (Billings). Rep. Fagg was subsequently replaced by Representative Royal Johnson (Billings). The Legislators were joined in fiscal year 1993 by the public member, Jean Agather (Havre); local government representatives, County Attorney George Corn, (Hamilton) and Mayor Wilmer Zeller (Glasgow); Native American representative, Carl Venne (Crow Agency); and gambling industry members, John Blair (Billings), Darrell Keck (Shelby), and Clint Lohman (Glendive). Gerald Dunbar's term expired at the end of 1993 and Attorney General Joe Mazurek appointed Lohman to replace him. Carl Venne resigned his position in April 1994 and the Native American representative is currently vacant.

The remainder of this report reviews the Gaming Advisory Council's deliberations and activities and presents the Council's recommendations. Additional information on the work of the Council, including staff reports, is available from the Gambling Control Division, PO Box 201424, 2550 Prospect, Helena, Montana 59620-1424.

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[17] Chapter 642, Laws of Montana.

[18] In 1991, the law was amended to require the Council to submit a biennial report.

II. COUNCIL DELIBERATIONS AND ACTIVITIES

The Gaming Advisory Council began its work for the 1993 - 1994 biennium in August 1993 and adopted its final recommendations in December 1994. During this period, members met six times. Four meetings were held in Helena and one each in Bozeman and Billings.

This chapter provides a brief overview of the Council's deliberations and actions during the 1993 - 1994 biennium. A summary account of each meeting is contained in the meeting minutes, which are on file with the Gambling Control Division.

Meeting #1: August 26, 1993 (Helena)

During the Council's first meeting, staff from the Gambling Control Division reviewed the 1993 changes to the state's gambling laws.

The Division also discussed proposed administrative rules that were drafted to implement the statutory changes. The rules addressed topics included in the statutory changes passed by the Legislature. This was the first meeting held under newly-elected Attorney General Joe Mazurek; the meeting was scheduled to follow the end of the 1993 Legislative session.

Janet Jessup, Administrator, reported on the licensing "pilot program" which began in the Missoula regional field office to address the length of time it takes the Division to process license applications with the goal of streamlining the application process. The "pilot program" created an on-line database that could be used by both the investigators and the revenue agents in conjunction with licensing technicians in the headquarters office to track the progress of license applications within the Division. Ms. Jessup stated that there were two factors which are key in determining how quickly an application can go through the process: one is the quality of the basic application itself, and the other is the complexity of the financial arrangements.

Ms. Jessup addressed the Council on the latest developments in State-Tribal compacts. Presently there are four compacts in place: Rocky Boy's Reservation (Chippewa-Cree Tribes), Fort Peck Reservation (Assiniboine-Sioux Tribes), Crow Reservation (Crow Tribe) and the Northern Cheyenne reservation (Northern Cheyenne Tribe). The Northern Cheyenne is up for renewal and the others have a one to five year duration, so this will be an on-going process. A council meeting devoted to the issue of Indian gaming was set-up for January.

Meeting #2: January 28, 1994 (Billings)

At its' Billings meeting, the Council discussed Indian Gaming in Montana. GCD Administrator Janet Jessup gave an overview of compact negotiations between the State and various Montana tribes and updated the Council on which tribes had a compact with the state. There are still only four reservations with compacts.

An overview from the Tribes perspective was presented by Pat Smith, tribal attorney for the Confederated Salish and Kootenai Tribes. Representatives of other Tribes in attendance offered their particular view of negotiations with the state. Generally the tribes position is that the state has not truly negotiated or at least not negotiated in good faith. According to the tribes, the state has given a simple "take it or leave it" command and the tribes argue that there should be more options discussed and negotiated. Governor Racicot stated that he would not agree, nor did IGRA allow, an expansion of gambling in Indian Country beyond what the Legislature authorized for the State of Montana.

Doris Poppler, a field representative for the National Indian Gaming Commission, spoke to the Council on the Commission's activities regarding the regulation of gambling on Indian Reservations. She stated that the true purpose of the Indian Gaming Regulatory Act is for economic development of the reservations. All money derived from gaming, excluding expenses, must be invested in education, infrastructure, welfare, social services and charitable purposes of the Tribes. She explained that the Act has made a tremendous difference across the country in living conditions on the reservation and business development on reservations. Sole proprietorship and ownership of gaming must remain with the Tribes.

Jean Agather of the Council stated that many people had contacted her regarding the gambling age and wished to see it raised to 21. Further, she wanted to keep the issue of compulsive gambling on the Council's agenda.

Meeting #3: April 7, 1994 (Helena)

John Blair was unanimously elected as Chairman of the Council and Jean Agather was elected Vice-chair.

The Legislative Auditor's office staff gave a detailed presentation on the findings of the Performance Audit of the Division conducted by the Auditor. Lisa Blanford, Auditor's staff, explained that this performance audit concentrated on the regulation and monitoring of Montana's video gambling machines. She explained that Montana currently uses a manual system to report and record video gambling machine income and that video gambling taxes and income reports are submitted on a quarterly basis.

Joe Murray, Auditor's staff, reported on video gambling machine inspections by the Division, and found that they could be improved. He suggested that the change made in 1992 to move the responsibility to a video gambling device inspector should increase the number of inspections from one every 28 years, to one every seven years, but he cautioned that this assumption is based on no increase in the number of machines and that in fy 1993 an additional 1,600 machines went into operation in the state. He said the issue needs to be followed up at a later date.

The Audit concluded that the Division has not been able to accurately keep track of whether the correct amount of tax has been paid the state and that meters are very difficult to reconcile to verify the correct amount of taxes paid. Further, the Auditor recommended an automated system, commonly called dial-up, to improve the regulation of video gambling. The alternative to a dial-up system would be to add at least an additional 23 FTEs at a cost of $1 million per year to reach an accurate level of tax collection with the manual system. Mr. Murray noted that the current manual system is ineffective and very labor intensive for both the Division and the gambling industry. The Legislative Audit Committee recommended that the Department of Justice and the Gambling Control Division present an implementation plan for a dial-up system to the 1995 Legislature.

Council members followed the discussion with questions about the audit and the recommendation of the dial-up system. Some Council members felt the Audit raised unproven questions about the integrity of the gambling industry and requested additional information from the Auditor's office. The Auditor, Scott Seacat responded that the report merely reviewed the ability of the Division to meet its' statutory responsibility to provide the public with fair and legal gambling and to collect the correct amount of revenue due the State in the most efficient and equitable manner possible.

Meeting #4: June 30, 1994 (Bozeman)

The June meeting was held at the Department of Justice Law Enforcement Academy in Bozeman. Director of the Academy, Greg Noose, provided a short history of the Academy and the type of educational courses and training offered. He also discussed the type of training and education that Division investigators receive. GCD investigator Allen Parker explained the role of the Investigation Bureau of the GCD and provided an overview of the tasks and responsibilities of investigators.

Attorney General Joe Mazurek addressed the Council and stated that he had proposed a budget to the Governor that included funding for a study and implementation of a dial-up system in Montana. He said that such a change is necessary because it is the most cost effective and efficient approach to making

sure that machine play is fair and that an accurate amount of taxes are collected. He invited the public, gambling industry and gambling opponents to let him know their concerns about this issue and he would be glad to discuss it with them.

Dennis Casey, Gambling Industry Association, explained a new information and education campaign entitled, "Know Your Limits", to aid in identifying compulsive or problem gamblers. Packets of the posters are being sent to gambling establishments in Montana and they are also available for sale from the GIA.

Janet Jessup, Administrator, stated that some operators have questioned the legality of "free food and drink" promotions and that the Division is reviewing the problems. She also updated the Council on negotiations with Indian Tribes on gambling on reservations. She reported that Attorney General Joe Mazurek and the Governor were going to the Flathead on July 5th and the Tribe is reviewing an interim compact offer. Major amendments to IGRA have been proposed but whether they will actually make it out of Congress is unknown at this time.

Chairman Blair requested an update on the "stacking or clustering" or liquor licenses at the next meeting.

Meeting #5: October 13-14, 1994 (Helena)

The Council was provided a tour of the GCD headquarters facilities on Airport Rd. The tour included a demonstration of testing practices in the lab, a review of license responsibilities, an explanation of auditing compliance and a review of investigative activities.

Administrative Officer Wilbur Rehmann updated the Council on the Division's review of gift enterprises and what promotional activities such as free food/drink and $10 for $5 coupons fall under the definition of gift enterprise. He reported that the Department should conclude its review in the next two weeks and he would report on the final explanation at the November Council meeting.

At a work session on October 13th prior to the regular meeting on the following day, Division staff made presentations on the proposal for a dial-up system and answered questions from the Council and interested members of the public. Janet Jessup, Administrator, asked members of the industry present if they had proposals for alternatives to a dial-up system. Some members of the public present expressed their concerns that there wasn't sufficient justification for such a dial-up system at this time.

The Attorney General reiterated that he was asking the Legislature to approve money for a study of the best dial-up system to meet the needs of Montana and to

implement the selection of a dial-up computer system.

Chief Deputy Attorney General Beth Baker presented the Department of Justice's complete legislative package for the 1995 Legislature. Council members asked questions and discussed the overall legislative package. The Council requested that the Division staff make a presentation on the Division budget at the November meeting.

At the request of Council member Jean Agather, Addiction counselors, Jim Farrell and Kay Flynn, presented the Council with information on compulsive gambling treatment programs in other states and they offered to assist the Council in creating a treatment program in Montana. Flynn cited the study done by Rachel A. Volberg, Ph.D, on "Gambling Involvement and Problem Gambling in Montana", 1992, on the prevalence of problem gambling in Montana. The Volberg study stated that, "The lifetime prevalence rate of problem gambling in Montana is 2.3% and the lifetime prevalence rate of pathological gambling is 1.3% of the adult population". Both counselors said that they are experiencing more clients with gambling related addiction problems and urged the Council to work to create a compulsive gambling treatment program.

Meeting #6: November 30, 1994 (Helena)

At the Council's request, the GCD presented the Department of Justice legislative package on gambling. Administrator Janet Jessup presented the Division's budget and explained the amount of money allocated for studying a comprehensive computerized accounting system (dial-up) for the state and for six additional FTEs. The additional FTEs are necessary to carry out the Division's ongoing statutory requirements with or without a dial-up system.

There was heated discussion of the Department's proposal to submit the dial-up system as part of a budget bill without a stand-alone bill specifically authorizing a dial-up system. Some members of the Council, industry groups and interested members of the public objected to having only a budget bill.

Ellen Engstedt, representing the Don"t Gamble with the Future organization, said that they would seek a sponsor for a bill to raise the legal gambling age from 18 to 21. She said that the current law created a confusing situation for tavern owners on who in their bar was old enough to gamble and not drink and who could do both. In addition, Don't Gamble with the Future is concerned about teenage gambling. Mark Staples, representing the Montana Tavern Association, said that his organization had not taken a position in support or opposition to the idea. Dennis Casey, representing the Gaming Industry Association, said they would oppose such a change.

A follow-up discussion of the "stacking or clustering" of liquor licenses in one location was held. John Blair and Darrell Keck said that the MTA would be bringing a bill to prevent such activity. Mark Staples, MTA, said that he would provide a copy of their proposed legislation for Department of Justice review and comment. Janet Jessup said that she would take a look at any proposal that was submitted and would forward it to the Attorney General.

Wilbur Rehmann, Administrative Officer, presented the final review of the gift enterprise statute and the impact on promotional activities of licensees and other retail businesses. The Departments' explanation of the gift enterprise statute is that promotions such as free food and drink tied to gambling machine play is not a gift enterprise because it does not incorporate "chance"--you get the gift if you play the machines, there's no chance involved. $5 for $10 coupons are not gift enterprises unless the operator or casino places restrictions on the promotion, such as, requiring the machines be played for a specific amount of time or that the $5 credit given by the operator is required to be returned if the player wins.

Follow-up discussions were held regarding compulsive gambling treatment programs. Norma Jean Boles, Department of Corrections and Human Services, said that they would support a bill that was essentially the same as the bill submitted in 1993 and urged the Council to take action on a treatment program. Darrell Keck suggested setting up a sub-committee of the Council to get the various parties together to work on a consensus proposal. The Council adopted his suggestion which resulted in the following recommendation.

III. RECOMMENDATIONS

At its November meeting, the Gaming Advisory Council agreed not to submit any bills to the 1995 Legislature for consideration. But the Council did appoint a sub-committee to review pathological gambling treatment programs and to come up with a proposal that the Council, industry representatives, Department of Corrections and Human Services, treatment professionals and representatives of Don't Gamble With the Future could agree with. The sub-committee is comprised of John Blair, Mark Staples, Larry Akey, Dennis Casey, Ellen Engstedt, Norma Jean Boles, and staff from the Division. The sub-committee will report back to the Council before the 1997 Legislature. Council member, Jean Agather, stated that Don't Gamble With the Future will be taking a bill to the Legislature to raise the gambling age from 18 to 21 so that it coincides with the liquor requirements.

The Council requested to be informed by telephone during the 1995 Legislative session and gave chair John Blair authorization for a telephone conference call if he deems it necessary to carry out any of the Council's business during the session.